

# GENERAL TERMS AND CONDITIONS OF PURCHASE

## 1. Agreement and Acceptance.

Each order to purchase goods and/or services and each authorization to begin work (each an “**Order**”) issued by Hirotec America Inc., its subsidiaries, and any entity controlling, controlled by, or under common control with it (collectively, “**Buyer**”) to any person or entity, its subsidiaries, and any entity controlling, controlled by, or under common control with it (collectively, the “**Seller**”) will be governed by any writings on the face of the Order signed by Buyer and by these General Terms and Conditions of Purchase (the “**Terms and Conditions**”), whether such Terms and Conditions are printed on the back of the Order, are physically attached to the Order, are transmitted electronically to the Seller, or are posted on Buyer’s website. The Order, these Terms and Conditions and any document incorporated herein by reference shall constitute the entire and exclusive agreement binding on Buyer and the Terms and Conditions expressly limit Seller’s acceptance to the terms set forth herein. These Terms and Conditions hereby reject the application of any of Seller’s terms and conditions of sale, whether written or oral, issued previously, now or in the future by Seller in relation, directly or indirectly, to the goods and services, unless Buyer specifically agrees to Seller’s terms in a separate writing signed by an authorized representative of Buyer. No course of dealing or trade usage is applicable unless expressly incorporated in these Terms and Conditions or specifically agreed upon in writing by Buyer. Invoices, bills of lading, quotes, or orders that purport to offer, modify, supersede, revise or add to certain terms from Seller do not constitute an acceptance by Buyer of any offer or proposal by Seller, whether in Seller’s quotation, acknowledgement, invoice or otherwise. In the event that any Seller quotation or proposal is held to be an offer, that offer is expressly rejected and is replaced by these Terms and Conditions. Seller shall have accepted each and every one of the terms in these Terms and Conditions when it does any of the following: (a) executes and returns an acknowledgment copy of an Order or these Terms and Conditions; (b) commences work pursuant to any Order; or (c) ships or furnishes any goods or services in response to an Order. Buyer may, at its sole election, either reject the tendered goods or services or treat such action as constituting Seller’s assent to these Terms and Conditions. In the event of a conflict between any prior or contemporaneous agreement or document exchanged between Buyer and Seller, these Terms and Conditions shall govern. Seller acknowledges and agrees to be bound by, and comply with, these Terms and Conditions as may be amended from time to time by Buyer, as well as the terms and conditions of Buyer’s end customer, to the extent that such terms are not inconsistent with these Terms and Conditions.

## 2. Purchase Orders and Changes.

- Seller will be authorized to begin work only if Seller has received a purchase order from Buyer or if Seller has received written authorization to begin work from one or more of the following Buyer personnel:
  - Manager of Project Management;
  - Vice President of Product Development,
  - Vice President of Operations or

- Vice President of Engineering.
- Buyer may, at any time, make changes, or cause Seller to make changes, of any kind in these Terms and Conditions. Any claim by Seller for a price adjustment due to such changes must be asserted in writing within ten (10) days from date of receipt by Seller of Buyer's notification of any change. Buyer will have the right to verify all claims hereunder by auditing relevant records, facilities, work or materials of Seller. Seller agrees to proceed with the changes made pursuant to this paragraph during such audit.
- All engineering changes, whether initiated by Buyer or Seller, will be processed pursuant to Buyer's practices in effect at the time of the change. All Buyer approved engineering changes will be promptly implemented by Seller as directed by Buyer. Price changes for Buyer approved engineering changes are to be based solely on the design cost variance from the superseded design and must be substantiated with appropriate documentation satisfactory to Buyer.

### 3. Price and Payments.

- **General.** Prices contained in any Order are firm and are not subject to change without prior Buyer's approval as evidenced by Buyer's properly authorized written amendment to such Order. No change shall be made by Seller for boxing, packing or cartage unless by express agreement. Seller is granted no right or set off of unpaid invoices against obligations of Seller's parent, subsidiaries or affiliates, to Buyer. No purchase money security interest will be granted by Buyer to Seller under these Terms and Conditions or any Order.
- **Most Favored Customer.** Seller warrants that the prices for the goods and services sold to Buyer hereunder are and will be no less favorable than Seller currently extends to any other customer for the same or similar goods or services in similar quantities. If Seller reduces its prices to others for the same or similar goods or services, Seller will immediately reduce the prices to Buyer for such goods or services. Seller warrants that no additional charges of any type will be added to prices shown on any Order without Buyer's express written consent.
- **Payment.** Buyer will make all payments to Seller within sixty (60) days net proximo from the date of Seller's invoice, unless expressly stated to the contrary on the front of an Order.

### 4. Delivery.

- **General.** Time is of the Essence. Deliveries are to be made both in the quantities and at the dates specified by Buyer. Buyer will not pay for material or items delivered to Buyer which different from, or in excess of, the types or quantities identified in any order. Buyer may, from time to time, change delivery schedules or direct temporary suspension of scheduled shipments upon prior written notice, none of which shall entitle Seller to a modification of the price for goods or services. If Seller fails to make deliveries or perform services at the specified time, all damages suffered by Buyer and any additional transportation or other costs required to meet the specified delivery schedule will be at the expense of Seller. 100% on time delivery is required as negotiated.

- **Release Authorization.** When deliveries are specified to be in accordance with Buyer's written releases, Seller will not fabricate or assemble any goods, nor procure required materials, nor ship any supplies, except to the extent authorized by such written releases.
- **Excusable Delays.** At Buyer's sole discretion, allowances may be made for delays caused by fire, flood, earthquake, strikes, insurrections and circumstances beyond the reasonable control of Seller. If, at any time, Seller has reason to believe that deliveries will not be made as scheduled, written notice setting forth the cause and the anticipated new delivery date(s) will be sent to Buyer immediately. Fire, strikes, accidents and other causes beyond Buyer's control shall relieve Buyer from accepting delivery hereunder while such cause is operative.

## 5. Packing, Marking and Shipment.

- **General.** Seller will pack and mark goods and make shipments in accordance with Buyer's instructions, meet carrier requirements and assure delivery free of damage and deterioration. All shipments to Buyer's plants must include two packing slips and bills of lading, or four packing slips and bills of lading in the case of shipments directed to a Buyer consolidation point. Whenever shipment is made by truck, Seller will enclose one of the packing slips (or packing slip sets in the case of multiple item shipments) in an envelope and deliver it to Buyer's traffic representative upon arrival at Buyer's plant. Seller is responsible for all risks to the goods until delivery and acceptance at the Buyer designated FOB point.
- **Designated Carrier.** Buyer may specify the carrier and/or method of transportation and Seller will process shipping documents and route shipments accordingly. Seller will comply with all of Buyer's transportation routing instructions, including without limitation, mode of transportation, utilization of assigned carrier and identification of the shipping point. Seller will be responsible for all excess costs incurred because of its failure to comply with Buyer's transportation instructions.
- **Documentation Requirements.** Buyer will not be responsible for delays in the payment of invoices if the following requirements are not met: invoices and packing slips must bear the Buyer-assigned supplier code, purchase order number, part number, the requisition number on quantity buys or the release number on blanket orders, the "Ship-to" address, Buyer-assigned plant location code, invoice-to-address, and whether containers used are "returnable" or "non-returnable."

## 6. General Warranty.

- **General.** Seller warrants, whether or not it is a merchant of the goods and/or services provided by it, that all goods and services shall:
  - Conform to all specifications, drawings, descriptions or samples furnished, specified or adopted by Buyer; and
  - be merchantable; and
  - be of good quality and free from defects, latent or patent, in design (where design is the responsibility of Seller), materials and workmanship. In addition, Seller acknowledges that Seller knows of Buyer's intended use and Seller further

warrants that all goods not designed by Buyer will be suitable and sufficient for the purposes intended; and

- comply with all state and federal laws relative thereto, including, but not limited to all laws relative to the manufacture thereof.
- **Title.** Seller further warrants that on delivery Buyer will receive good and merchantable title to the goods and services, free and clear of all liens and encumbrances of any kind and that all goods and services will be free from any actual or claimed patent, copyright or trademark infringement and any claims of third parties.
- **Warranty Period.** These warranties will be coterminous with the warranty extended to Buyer's customers by Buyer. Seller's liability for a breach of the warranties given herein will be determined by Buyer's analysis of a sample of products against which claims are made that the products are defective. Seller will participate in such analysis in accordance with Buyer's procedures.
- **Survival.** These warranties are in addition to any warranties implied by law or otherwise made by Seller and will survive acceptance and payment by Buyer.

## 7. Inspection and Claims.

- **General.** Seller acknowledges that Buyer will not perform incoming inspections of the goods, and waives any rights to require Buyer to conduct such inspections. To the extent Buyer rejects goods as nonconforming, the quantities under the subject Order will automatically be reduced unless Buyer otherwise notifies Seller. Seller will not replace quantities so reduced without a new contract or schedule from Buyer. Nonconforming goods will be held by Buyer in accordance with Seller's instructions at Seller's risk. Seller's failure to provide written instructions within 10 days, or such shorter period as may be commercially reasonable under the circumstances, after notice of nonconformity shall entitle Buyer, at Buyer's option, to charge Seller for storage and handling or to dispose of the goods without liability to Seller. Payment for nonconforming goods shall not constitute an acceptance of them, limit or impair Buyer's right to assert any legal or equitable remedy, or relieve Seller's responsibility for latent defects.
- **Inspection of Manufacturing Process.** Buyer may inspect and evaluate all goods (including all tooling and material used in their manufacturing process), and all services at times and places designed by Buyer. Seller will provide and maintain a Supplier Quality Assurance System approved by Buyer and which meets Buyer's specifications, as they may be amended from time to time. Seller will perform inspections as designed by Buyer and Seller will make inspection systems, procedures and records available to Buyer upon request. Buyer reserves the right to inspect at Seller's premises and have Buyer's customer present when required.
- **Remedies.** Without limiting its remedies, after notice to Seller, Buyer may
  - replace or correct any non-conforming goods or services and charge Seller the full cost of such replacement or correction on an expedited basis to meet delivery dates and removal of any defective materials and goods,
  - cancel the order for default,
  - subject Seller's account to a debit for the damages suffered by Buyer, and/or
  - cause the removal of Seller as an approved Buyer supplier.

- **Setoff/Recoupment.** In addition to any right of setoff or recoupment provided by law, all amounts due to Seller shall be considered net of indebtedness of Seller and its affiliates/subsidiaries to Buyer and its affiliates/subsidiaries; and Buyer shall have the right to deduct any amounts due or to become due from Seller and its affiliates/subsidiaries to Buyer and its affiliates/subsidiaries from any sums due or to become due to Seller and its affiliates/subsidiaries from Buyer and its affiliates/subsidiaries.

## **8. Property and Special Tooling.**

Property of every description including all tools, equipment, material, drawings, manufacturing aids and replacements of the foregoing furnished by Buyer, either directly or indirectly, or as acquired or manufactured by Seller for use in the performance of work hereunder, for which Seller has been reimbursed by Buyer (“Special Tooling”), will be

- the property of Buyer,
- plainly marked or otherwise adequately identified by Seller as the property of Buyer, and
- safely stored separate and apart from Seller’s property. Seller will adhere to the Buyer procedure in effect at the time for submitting requests for reimbursement for tooling costs. All requests for reimbursement for tooling costs are subject to review, approval and audit by Buyer. Seller will retain and not use or rework tooling or property of Buyer except for performance of work hereunder or as authorized in writing by Buyer. Seller will keep such tooling or property in its possession and/or control in good condition, fully covered by insurance, free of liens and encumbrances and will replace such tooling or property when lost, damaged or destroyed. All Buyer tooling and property will be transferred as Buyer may direct at any time. If Seller makes any unauthorized transfer of Special Tooling, Seller will reimburse Buyer for any costs incurred by Buyer in returning the tooling to Buyer or moving the tooling as directed by Buyer.

## **9. Work on Premises.**

If Seller’s employees, contractors, or agents provide services to Buyer on Buyer’s premises or Buyer’s customer’s premises, Seller shall examine the premises to determine whether they are safe for such services and shall advise Buyer promptly, in writing, of any situation it deems to be unsafe. Seller shall handle and be responsible for every claim that arises from Seller’s work on Buyer’s premises or Buyer’s customer’s premises that is for actual or alleged injury or damage to any person, property, economic loss, worker’s compensation claim, or violation of any law, or at Buyer’s option provide reasonable assistance to Buyer in Buyer’s handling of such claims.

## 10. Insurance and Indemnification.

**Insurance.** Seller shall, at its own expense, maintain, and carry in full force and effect with financially sound and reputable insurers acceptable to Buyer, insurance coverage of the following types and with the coverage limits set forth herein:

(a) Commercial General Liability Insurance, including Contractual Liability Insurance, XC&U Coverage (if applicable), Personal/Advertising Injury Coverage, goods and services/Completed Operations Insurance, Cross-Liability Coverage, Product Recall and Product Liability Coverage, and Broad Form Property Damage covering all operations and work hereunder and written on an "Occurrence Coverage Basis". Seller's ongoing operations shall be defined to include any warranty or representation, whether expressed or implied, after product or project acceptance. Such insurance shall specifically refer to these Terms and Conditions and shall specifically cover the liability assumed and/or intended to be assumed by Seller under the indemnity provisions of these Terms and Conditions, regardless of whether the indemnification obligation giving rise to such liability is found to be void or otherwise unenforceable due to Workers' Compensation immunity or other grounds. It is expressly understood and agreed that it is the intent of the parties that the insurance provided hereunder shall afford the Indemnified Parties insurance coverage against their own acts or omissions, as well as Seller's acts or omissions. The limits of insurance shall be no less than \$1,000,000 per occurrence and no less than a \$2,000,000 annual aggregate. In addition, such insurance shall, by endorsement issued by said insurer on each such policy, name Buyer as an Additional Insured with respect to claims arising out of operations performed pursuant to or incidental to any Order issued to Seller by Buyer, whether by Seller, its subcontractors, or an Indemnified Party. Seller and all of Seller's subcontractors shall, in writing, waive their rights of subrogation against Buyer and obtain an endorsement to their respective Commercial General Liability, Property and Commercial Auto policies waiving the insurer's subrogation rights against Buyer.

(b) Workers' Compensation Insurance in compliance with the applicable laws of each jurisdiction affected by any Order. Seller and all subcontractors retained by or through Seller, and all their employees, workmen, servants, or agents shall comply with all requirements of the Workers' or Workers' Compensation laws of the states in which Seller or any subcontractor retained by or through Seller is performing any work hereunder. Seller shall, in addition, carry Employer's Liability insurance covering all operations and work hereunder with a limit of no less than \$500,000 per person. Evidence of compliance with this Section (b) shall be furnished to Buyer. Seller and any subcontractors retained by or through Seller agree to waive their rights of subrogation against Buyer.

(c) If the Seller, or any of its employees, will use or provide for use of motor vehicles in providing and/or performing the work under any Order, Automobile (motor vehicle) Liability Insurance on all owned, non-owned, and hired automobiles, covering all liabilities for personal injury and property damage arising from the use of such vehicles,

with limits of no less than \$1,000,000 per occurrence, naming Buyer as an additional insured.

(d) Excess/Umbrella Liability Insurance, on an "Occurrence Coverage Basis", in excess of underlying coverage described above for Employer's Liability, Commercial General Liability and Automobile Liability in an amount not less than \$2,000,000.

(e) Seller shall provide Buyer with a certificate of insurance and issued endorsements evidencing the coverage specified in this Paragraph 10 naming Buyer as 'Additional Insured' as specified herein. The above insurance requirements are minimum requirements and shall not limit Seller's liability to Buyer in any manner. Issued endorsements evidencing the insurance required herein shall be a condition precedent to Buyer's obligation to make payments to Seller. Acceptance of a nonconforming certificate of insurance by Buyer shall not constitute a waiver of any rights of the Indemnified Parties under this order. It is further agreed that the coverage afforded the Indemnified Parties shall be primary and non-contributory insurance for the Indemnified Parties with respect to claims arising out of operations performed pursuant to or incidental to any Order, whether by Seller, its subcontractors, or an Indemnified Party. If the Indemnified Parties have other insurance which is applicable to the claim, such other insurance shall be on an excess basis and not contributory.

**General Indemnification.** Seller shall defend, indemnify, and hold harmless Buyer, any of its subsidiaries or affiliates, and any of its or their officers, directors, employees, workmen or agents (collectively, the "Indemnified Parties" and, individually, an "Indemnified Party") against any and all claims, liability, losses, damages, costs and settlement expenses, including attorneys' fees, arising from or in connection with:

- any breach or alleged breach by Seller, or any subcontractor retained by or through Seller or of any of their employees, workmen or agents, of any provision of these Terms and Conditions;
- any and all claims which may be made against any Indemnified Parties by reason of injury or death to person, or damage to property, suffered, or claimed to have been suffered, by any person, firm, corporation, or other entity, caused by, or alleged to have been caused by, any act or omission, of Seller or any subcontractor retained by or through Seller or of any of their employees, workmen or agents;
- any and all damage to the property of any Indemnified Parties including, but not limited, property occupied or used by or in the care, custody, or control of Seller, caused by any act or omission of Seller or any subcontractor retained by or through Seller or of any of their employees, workmen or agents;
- any and all claims which may be made against any Indemnified Parties by reason of injury or death to person, or damage to property, however caused, or alleged to have been caused, (except for injury, death, or damage caused by the sole negligence of any Indemnified Parties) suffered, or claimed to have been suffered by Seller or any subcontractor retained by or through Seller or by any of their employees, workmen or agents, notwithstanding the application at the provisions

of any applicable state Workers' Compensation law and statute. Seller agrees to specifically indemnify any Indemnified Parties from and against any and all claims against an Indemnified Party by Seller's employee;

- any and all claims and demands which may be made against any Indemnified Parties by reason of any infringement or alleged infringement of any intellectual property rights or claims caused by or alleged to have been caused by the use of any materials or equipment furnished or used by Seller or any subcontractor retained by or through Seller;
- any and all penalties imposed on account of the violation of any law or regulation, compliance with which is not expressly left by these Terms and Conditions or any Order solely to the part of Buyer; and
- any product recalls, production interruptions and product line shut downs of Buyer or Buyer's customer resulting from any of the foregoing or from any act or omission by Seller or any of its employees, contractors or agents. Such damages may include indirect or consequential, incidental, exemplary, punitive or special damages, including lost profits or revenues.

## **11. Use of Buyer's Name.**

Seller will not publish, in any manner or media now existing or hereafter developed (including, but not limited to, any conventional media outlet or any social media platform), the fact that Seller has furnished or contracted to furnish Buyer goods and/or services, or use the tradename(s) or trademark(s) of Buyer, its products, or any of its associated companies or customers, without the prior written consent of Buyer. Seller will not place its or any third party's trademark or other designation on any part produced or manufactured for Buyer if the product bears a Buyer trademark or an identifying mark specified by Buyer, or if the product is peculiar to Buyer's design ("Marked Product"). Seller will produce and manufacture Marked Product, and similar goods, only for Buyer and will not sell Marked Product or similar goods to third parties without Buyer's prior written consent, which consent may be withheld in Buyer's sole and absolute discretion.

## **12. Technology Rights.**

- **General.** Trade secrets, specifications, drawings, designs, notes, instructions, manufacturing/engineering data and analyses, compositions of matter, financial data, other technical and business information which are, intentionally or unintentionally, supplied or disclosed to Seller by Buyer in connection with the performance hereunder (collectively, the "Confidential Information") will be deemed to be confidential and proprietary to, and remain the sole property of Buyer and/or Buyer's customers. Such Confidential Information may be covered by one or more Buyer patents, patent applications, copyrights or are otherwise part of Buyer's know-how or proprietary information. No rights are granted to Seller under any Buyer patents or technology except as may be necessary to fulfill Seller's obligations hereunder.

- **Infringement Claims.** Seller shall indemnify and hold harmless Buyer and its customers and shall handle and be solely responsible for the defense or settlement of every claim of infringement of any present or future patent, copyright, trademark, industrial design right or other proprietary right that results from the sale or use of the goods/services supplied hereunder
  - alone,
  - in combination by reason of their content, design or structure, or
  - in combination in accordance with Seller's recommendations, and at Buyer's option provide all reasonable assistance to Buyer in Buyer's handling of such claims. Seller's obligations shall apply even though Buyer furnishes all or any portion of the design and specifies all or any portion of the processing.
- **Grant-back License.** Seller grants to Buyer and its affiliates/subsidiaries a worldwide, nonexclusive, royalty-free, irrevocable license to: (i) use, sell and modify the goods covered hereunder, and to incorporate such goods into other products for use or sale; and (ii) in the case where Seller is unable to perform or has breached these Terms and Conditions, to make goods or have goods made by an alternate source for the remaining duration of the agreement or as otherwise mutually agreed to in writing. Buyer may share with third parties any drawings or other information provided by or through Seller and related to the goods, including any improvements thereto as they may be delivered from time to time.
- **Non-Assertion.** All works of original authorship, ideas, inventions (whether patentable, patented or not), know-how, processes, compilations of information, and other intellectual property created by Seller for which the development was paid for by Buyer (collectively, "Proprietary Materials"), and all intellectual property rights in such Proprietary Materials, are owned by Buyer. Seller agrees that all such Proprietary Materials created by Seller for which the development was paid for by Buyer are "works made for hire" as that term is used in connection with the U.S. Copyright Act. Seller will neither assert nor transfer to another a right to assert against Buyer and/or its associated companies, or dealers or customers thereof any copyright of Seller that is applicable to any such Proprietary Materials. All information disclosed heretofore and hereafter by Seller to Buyer in connection with these supplies or services is disclosed on a non-confidential basis.
- **Secrecy.** In addition to the Seller's obligations pursuant to any separate confidentiality agreement between Buyer and Seller, Seller will handle all of this Confidential Information in such a manner to insure that it is not used for any purpose detrimental to the interests of Buyer and will not, directly or indirectly,
  - use or exploit such Confidential Information in any way except to fulfill Orders and
  - will keep confidential and not disclose such Confidential Information to any third-party without Buyer's prior written consent. All drawings and tracings furnished by Buyer for any Order must be returned with the last invoice.

### 13. Injunctive Relief.

Seller agrees that Buyer, in addition to any other available remedies under applicable law, shall be entitled, as a matter of course, to an injunction, restraining order or other equitable relief from

any court of competent jurisdiction, restraining any violation or threatened violation of any of the provisions contained in paragraphs 8, 11 and 12 of these Terms and Conditions.

## **14. Assignment.**

These Terms and Conditions or any rights or interest herein may not be assigned, delegated or encumbered in whole or in part, or sold or transferred as part of a sale of the Seller or its business, stock or assets without Buyer's prior written consent, including without limitation, the subcontracting of work to be performed hereunder or the transfer of Special Tooling to third parties for the performance of work hereunder.

## **15. Termination at Buyer's Option.**

Buyer may terminate these Terms and Conditions or any Order at any time without cause in whole or in part by written notice, whereupon Seller will stop work on the date and to the extent specified in such notice and terminate all orders and subcontracts that relate to the terminated order. Within thirty (30) days after receipt or termination notice, Seller will submit all claims resulting from such termination. Buyer will have the right to verify such claims by auditing the relevant records, facilities, work or materials of Seller and/or its subcontractors such claims will be subject to the following limitations: Buyer will pay Seller for finished work accepted by Buyer as well as for the documented cost to Seller of work in process and raw material allocable to the terminated work which is not in excess of any prior Buyer authorization. Payment made under this paragraph will not apply to any cancellation by Buyer for default by Seller or for any other cause recognized by law or specified in these Terms and Conditions.

## **16. Cancellation for Default.**

If Seller

- fails to deliver goods or perform services at the time specified herein or fails to make progress so as to endanger performance of the work or impair delivery dates, or
- fails to perform any other provisions hereof and does not cure such failure within a period of (10) days after receipt of written notice from Buyer specifying such failure, or
- becomes financially unstable, insolvent, makes an assignment in favor of creditors, or enters bankruptcy or dissolution procedures, or
- is merged into another company and/or is expropriated or nationalized, Buyer may cancel the whole or any part of any Order without any liability, except for payment (subject to Buyer's right of set-off) due for goods and services delivered and accepted to date. Upon such termination Buyer will have the right, and on notice to Seller, to take title to and possession of all or any part of such materials, work in process or finished goods performed by Seller, any Special Tooling and all drawings, technology and information furnished by Buyer. Seller shall reimburse Buyer for all costs incurred by Buyer in connection with Buyer's cancellation pursuant to this paragraph, including but not limited to all attorneys or other professional fees, and seller shall be liable for all damages of seller as provided in these Terms and Conditions.

## **17. Spare Parts for Equipment.**

- Seller will make spare parts for Buyer's requirements for any equipment purchased hereunder for ten years or for such longer time as may be required by Buyer after an order is terminated. The price of the part for Buyer's service requirements will be the price provided in the order plus costs actually incurred for special packaging.
- If the part is no longer required, then the price of the part for Buyer's equipment will be no greater than the last price stated in the order plus or minus
  - any changes in the cost of materials since the order was terminated, plus
  - a volume adjustment reflecting the actual increase in the cost per unit of producing fewer units, plus
  - a set-up charge reflecting the actual cost of preparation for the production run, plus
  - any additional costs actually incurred for special packaging. All of the foregoing components of the price will be documented to Buyer's reasonable satisfaction, including without limitation, set-up detail, machine productivity, scrap allowance, labor inefficiencies and excess raw material requirements.
- If the parts are manufactured in a country other than the country in which the goods are delivered to Buyer, Seller will mark the goods shipped for Buyer's service requirement "Made in (country of origin)".

## **18. Taxes.**

The goods purchased hereunder are for resale or for an exempt purpose and may be exempt from local sales or use taxes in the foreign jurisdiction.

## **19. Remedies.**

The rights and remedies herein reserved to Buyer are cumulative and in addition to any other or further rights and remedies available at law or in equity. The failure of either party at any time to require performance by the other party of any provision hereunder shall in no way affect the right to require such performance at any time thereafter. No waiver of any breach of any provision hereunder will constitute a waiver of any other breach or a waiver of such provision.

## **20. Component Application Sign-Off.**

Suppliers of component parts and sub-systems are expected to concur, in writing, that the application of their components or sub-systems meets the design intent for which they have been developed. This includes both the application in the Buyer tooling system and its operation in its final environment. Concurrence must occur at both design and try-out. This should be the objective of Seller.

## **21. Required Compliance.**

In providing goods or services hereunder, Seller will comply with any and all applicable foreign and U.S. federal, state and local laws, and regulations promulgated thereunder, including without limitation, the U.S. Fair Labor Standards Act as amended. Seller will defend, indemnify and hold Buyer harmless from and against any and all claims, losses, damages, costs and expenses resulting from or arising out of any failure of Seller or Seller's employees, agents and subcontractors to comply with any applicable governmental regulations and/or statutes.

## **22. Relationship of Parties.**

Seller and Buyer are independent contracting parties and nothing hereunder shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

## **23. Governing Law and Jurisdiction.**

These Terms and Conditions shall be construed and interpreted according to the laws of the State of Michigan without regard to rules pertaining to conflicts of law. The federal courts located in Detroit, Michigan, or the state courts located in the State of Michigan, County of Oakland, will have exclusive jurisdiction for any disputes relating to these Terms and Conditions. The United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms and Conditions. If any provision is or becomes invalid or unenforceable under any law, the remaining provisions will be in full force and effect as written.