

# SEPAC INC. TERMS AND CONDITIONS FOR SUPPLIERS

## 1. CONTRACT AND ACCEPTANCE

Seller has read and understands these Terms and Conditions (the “Terms and Conditions” and together with the applicable purchase order, the “Contract”), and Seller acknowledges and agrees that (a) any goods or services purchased by SEPAC, Inc. (“Buyer”) are subject to these Terms and Conditions in all respects and (b) Seller’s written acceptance or the commencement of any work or services shall constitute Seller’s acceptance of these Terms and Conditions.

## 2. SHIPPING AND PACKAGING

Seller agrees: (a) to properly pack, mark and ship goods in accordance with industry standard practices and any stated requirements of Buyer, the involved carriers, and, if applicable, the country of destination; (b) to route shipments in accordance with Buyer’s instructions; (c) to make no charge for handling, packaging, storage or transportation of goods, unless otherwise stated in the Contract; (d) to provide with each shipment packing slip a certificate of conformance to print showing the applicable part number, revision level, quantity, Buyer’s purchase order and/or release number and date of shipment marked thereon; (e) to properly mark each package with a label/tag according to Buyer’s instructions; and (f) to promptly forward the original bill of lading or other shipping receipt for each shipment in accordance with Buyer’s instructions. Seller will include on bills of lading or other shipping receipts correct classification identification marks of the goods shipped in accordance with Buyer’s instructions and the carrier’s requirements. The marks on each package and identification of the goods on packing slips, bills of lading and invoices (when required) shall be sufficient to enable Buyer to easily identify the goods purchased. Over-shipments may be returned at Seller’s expense unless prior approval from Buyer is obtained. In the event scheduled shipments are not made as requested, premium transportation charges resulting from non-conformance to Buyer’s shipping instructions is assumed by Seller. Seller must adhere to packaging specifications as stated on release/schedules. Seller shall not ship materials in containers previously used for chemicals, cleaners, or other potentially hazardous materials.

## 3. SHIPPING TERMS, TITLE AND RISK OF LOSS

The F.O.B. point for all goods purchased and sold under the Contract is the Buyer’s dock, freight collect, unless otherwise specified on the face of the purchase order. Title and risk of loss shall remain with Seller until the goods are delivered to the Buyer’s dock, subject to inspection and acceptance as set forth herein and to the other terms and conditions set forth herein and therein. Seller bears all risk of loss or damage to the goods until title transfers to Buyer.

## 4. DELIVERY SCHEDULES

Time is of the essence, and deliveries shall be made both in quantities and at times specified in the Contract or in Buyer’s schedules. Buyer shall not be required to make payment for goods delivered to Buyer that are in excess of quantities specified on Buyer’s delivery schedules or in subsequent purchase orders and Buyer shall not be obligated for items exceeding quantities authorized by such schedules or in subsequent purchase orders. Buyer may change the rate of scheduled shipments or direct temporary

suspension of scheduled shipments, neither of which shall entitle Seller to a modification of the price for goods or services covered by the Contract. Where quantities and/or delivery schedules are not specified, Seller shall deliver goods in such quantities and times as Buyer may direct in subsequent schedule releases and/or purchase orders.

#### **5. PREMIUM SHIPMENTS**

If Seller's acts or omissions result in Seller's failure to meet Buyer's delivery requirements and Buyer requires a more expeditious method of transportation for the goods than the transportation method originally specified by Buyer, Seller shall ship the goods as expeditiously as possible at Seller's sole expense. In any other event, Seller agrees not to charge any premium unless approved in writing by Buyer prior to the shipment of the goods.

#### **6. BILLING AND PAYMENT**

After each shipment of goods, Seller will submit an invoice listing a description of the goods provided, and as applicable, part numbers, quantity, unit of measure, and the unit and total prices. If authorized by the corresponding Buyer purchase order, any incidental charges such as royalties, selling commissions, nonrecurring engineering or other incidental charges must be separately itemized and identified on the invoice. The invoice must also include the following information, as applicable: (a) name and address of Seller; (b) name of shipper (if different than Seller); (c) Buyer's corresponding purchase order number; (d) country of export; (e) detailed description of goods; (f) country of origin (manufacture) of the goods, or if multiple countries of origin, the country of origin of each part shipped; (g) weights of the goods shipped; (h) currency in which the sale was made; (i) shipment terms used; and (j) all applicable rebates and discounts. Each invoice will be accompanied (if applicable) by a signed bill of lading or express receipt evidencing shipment. Payment of an invoice does not constitute acceptance of the goods and is subject to appropriate adjustment should Seller fail to meet the requirements of the purchase order. Payment terms are net 45 days from receipt of invoice and conforming goods unless otherwise stated on the face of the purchase order or other written agreement executed by both Seller and Buyer. Payment will be scheduled for the first payment cycle following the net terms for the purchase order.

#### **7. CHANGES; COST CREEP**

Buyer reserves the right at any time to direct changes, or cause Seller to make changes, to drawings and specifications of the goods, the Statement of Requirements or to otherwise change the scope of the work covered by the Contract including work with respect to such matters as inspection, testing or quality control, and Seller agrees to promptly make such changes. Any difference in price or time for performance resulting from such changes shall be equitably adjusted by Buyer after receipt of documentation in such form and detail as Buyer may direct. Seller understands that it must manage changes, both during the development and production phases of product programs, so that cost creep is avoided. Minor design changes are contemplated within the scope of the programs and will not result in price increases. Major changes would constitute a change in the scope of a program, and will be reviewed jointly for cost impacts prior to the approval of the change. Seller will be required to provide full disclosure of price details, piece price and tooling. No increase of any kind will be allowed without the prior written approval of Buyer. Any

changes made to the Contract pursuant to this Section 7 shall be in accordance with the terms and subject to the conditions set forth in Section 30.

#### **8. NONCONFORMING GOODS**

The goods covered by this Contract shall be subject to inspection and acceptance or rejection by Buyer after delivery, notwithstanding prior payment. Seller acknowledges that Buyer may, but is not required to, perform incoming inspections of the goods, and Seller waives any rights to require Buyer to conduct such inspections. To the extent Buyer rejects goods as nonconforming, the quantities under this contract 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 ten (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.

#### **9. PROHIBITED PRACTICES**

The following acts or practices are prohibited: 1. Unauthorized Repair – Repairs (by welding, brazing, soldering, or the use of adhesives) of parts damaged or found faulty in the fabrication process; repairing holes in castings, forgings or other materials by plugging or bushing without authorization from Buyer. 2. Unauthorized Processing – Addition, revision, or deletion of thermal, chemical, or electrochemical processes in manufacturing when processes are subject to specification control by Buyer. 3. Improper Material Submittal – Submission of material having known defects/problems to Buyer without notification. 4. Improper Material Re-submittal – Resubmission of material to Buyer without material being clearly identified as resubmitted material. 5. Unauthorized Material and Information Transfer – No supplier shall buy, sell, trade, or transfer Buyer owned/supplied drawings, data, material, parts, devices, assemblies or end equipment for purposes other than the performance of Buyer business, without prior written approval. 6. Reclaimed Material – No supplier shall use reclaimed material without prior written approval from the Buyer.

#### **10. FORCE MAJEURE**

Any delay or failure of either party to perform its obligations hereunder shall be excused if Seller is unable to produce, sell or deliver, or Buyer is unable to accept delivery, buy or use, the goods or services covered by the Contract, as a result of an event or occurrence beyond the reasonable control of the party and without its fault or negligence, including, but not limited to, acts of God, actions by any governmental authority (whether valid or invalid), illegality or regulatory restriction, fires, floods, windstorms, explosions, riots, natural disasters, wars or other casualty, sabotage, labor problems (including lockouts, strikes and slowdowns), inability to obtain power, material, labor, equipment, energy, utilities or transportation, or court injunction or order; provided that written notice of such delay (including the anticipated duration of the delay) shall be given by the affected party to the other party as soon as possible after the event or occurrence (but in no event more than ten (10) days thereafter). During the period of such delay or failure

to perform by Seller, Buyer, at its option, may purchase goods and services from other sources and reduce its schedules to Seller by such quantities, without liability to Seller, or have Seller provide the goods and services from other sources in quantities and at times requested by Buyer, and at the prices set forth in the Contract. In addition, Seller at its expense shall take such actions as are necessary to ensure the supply of goods and services to Buyer for a period of at least thirty (30) days during any anticipated labor disruption or resulting from the expiration of Seller's labor contract(s). If requested by Buyer, Seller shall, within ten (10) days, provide adequate assurances that the delay shall not exceed thirty (30) days. If the delay lasts more than thirty (30) days or Seller does not provide adequate assurance that the delay will cease within thirty (30) days, Buyer may immediately terminate the Contract without liability.

## **11. WARRANTY AND REMEDIES**

Seller represents and warrants that the goods (a) are owned by Seller or Seller has the right to transfer free and clear title to Buyer; (b) are free from defects in materials, workmanship and design, even if the design has been approved by Buyer; (c) are in good working order and condition; (d) conform to the applicable specifications, drawings, quality control plans, samples, and other descriptions furnished or specified by Buyer; (e) are merchantable; (f) are free and clear of any and all liens, restrictions, reservations, security interests, and encumbrances; (g) do not infringe, violate or misappropriate any patent, copyright or other intellectual property rights of any third party, and do not utilize misappropriated third party trade secret information; and (h) the manufacture, production, installation, sale and use by Buyer are in compliance with any and all applicable laws, rules and regulations. In addition, Seller acknowledges that Seller knows of Buyer's intended use and warrants that all goods covered by the Contract that have been selected, designed, manufactured or assembled by Seller based upon Buyer's stated use will be fit and sufficient for the particular purposes intended by Buyer. All warranties shall survive any inspection, delivery or acceptance of the goods, or payment for the goods delivered and such warranty shall run to the benefit of Buyer, Buyer's customers and/or Buyer's successors and assigns, and shall not be deemed exclusive of any other warranties, express or implied. The warranties provided are cumulative and in addition to any warranty provided by law or equity. Any applicable statute of limitations runs from the date of discovery. Goods that meet the preceding standards are collectively called "conforming goods." If conforming goods are not furnished within the time specified by Buyer, then Buyer may, at its election and in addition to any other rights or remedies it may have at law or in equity, have the nonconforming goods repaired, replaced, or corrected at Seller's expense. Seller is responsible for the costs of repairing, replacing, or correcting nonconforming goods, and for all related costs, expenses and damages, including but not limited to, the costs of removal, disassembly, failure analysis, fault isolation, reinstallation, re-inspection, and retrofit of the nonconforming goods or of Buyer's affected end-product; all freight charges; all customer charges; and all corrective action costs (i.e., costs of additional inspection or quality-control systems). Unless set off by Buyer, Seller will reimburse Buyer for all such costs upon receipt of Buyer's invoice.

## **12. RESTRICTED AND REPORTABLE SUBSTANCES; SPECIAL WARNINGS**

Prior to and with the shipment of the goods, Seller agrees to furnish to Buyer sufficient warning and notice

in writing (including appropriate labels on the goods, containers and packing) of any hazardous material that is an ingredient or a part of any of the goods, together with such special handling instructions as may be necessary to advise carriers, Buyer, and their respective employees of how to exercise that measure of care and precaution that will best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the goods, containers and packing shipped to Buyer.

### **13. INSOLVENCY**

Buyer may immediately terminate the Contract without liability to Seller in any of the following events occur: (a) Seller is insolvent; (b) the filing of a voluntary petition in bankruptcy by Seller; (c) the filing of any involuntary petition in bankruptcy against Seller; (d) the appointment of a receiver or trustee for Seller; or (e) the execution of an assignment for the benefit of creditors by Seller, provided that such petition, appointment or assignment is not vacated or nullified within thirty (30) days of such event. Seller shall reimburse Buyer for all costs incurred by Buyer in connection with any of the foregoing, including, but not limited to, all attorney's or other professional fees.

### **14. TERMINATION FOR BREACH OR NONPERFORMANCE**

Buyer reserves the right to terminate all or any part of the Contract, without liability to Seller, if Seller: (a) repudiates or breaches any of the terms of the Contract, including Seller's warranties; (b) fails to perform services or deliver goods as specified under the Contract or hereunder; (c) fails to make progress so as to endanger timely and proper completion of services or delivery of goods, and does not correct such failure or breach within ten (10) days (or such shorter period of time if commercially reasonable under the circumstances) after receipt of written notice from Buyer specifying such failure or breach, except as provided in Section 9. In addition, Buyer may terminate this contract upon giving at least sixty (60) days notice to Seller, without liability to Seller, if Seller (i) sells, or offers to sell, a material portion of its assets, or (ii) sells or exchanges, or offers to sell or exchange, or causes to be sold or exchanged, a sufficient amount of its stock that effects a change in the control of Seller.

### **15. TERMINATION FOR CONVENIENCE**

In addition to any other rights of Buyer to terminate the Contract, Buyer may, at its option, immediately terminate all or any part of the Contract, at any time and for any reason, by giving thirty (30) days written notice to Seller. Upon such termination, Buyer shall pay to Seller the following amounts without duplication: (a) the contract price for all goods or services that have been completed in accordance with the Contract and not previously paid for; and (b) the actual costs of work-in-process and raw materials incurred by Seller in furnishing the goods or services under the Contract to the extent such costs are reasonable in amount and are properly allocable or apportionable under generally accepted accounting principles to the terminated portion of the Contract; less, however, the sum of the reasonable value or cost (whichever is higher) of any goods or materials used or sold by Seller with Buyer's written consent, and the cost of any damaged or destroyed goods or materials. Buyer will make no payments for finished goods, services, work-in-process or raw materials fabricated or procured by Seller in amounts in excess of those authorized in delivery releases nor for any undelivered goods that are in Seller's standard stock or that are readily marketable. Payments made under this Section 14 shall not exceed the aggregate price payable by Buyer for finished goods or services that would be produced or performed by Seller under

delivery or release schedules outstanding at the date of termination. Except as provided in this Section 14, Buyer shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, or general and administrative burden charges from termination of the Contract. Within sixty (60) days from the effective date of termination, Seller shall submit a comprehensive termination claim to Buyer, with sufficient supporting data to permit Buyer's audit, and shall thereafter promptly furnish such supplemental and supporting information as Buyer shall request. Buyer or its agents shall have the right to audit and examine all books, records, facilities, work, material, inventories and other items relating to any termination claim of Seller upon request and during normal business hours.

#### **16. STOP WORK**

At any time by written notice and at no cost, Buyer may require Seller to stop all or any part of work under this Purchase Order for a time period specified by Buyer. Immediately upon receipt of a Stop-Work Order, Seller will comply with its terms. At any time during the Stop Work Order period, Buyer may, in whole or in part, either cancel the Stop Work Order or terminate the work. To the extent the Stop Work Order is cancelled or expires, Supplier must resume work. If Buyer terminates this Purchase Order, Buyer's sole liability to Seller, and Buyer's sole and exclusive remedy, is payment for Goods received and accepted by Buyer before termination. Upon termination, Buyer may require Seller to transfer title and deliver to Buyer any completed Goods and Buyer will pay the Purchase Order price for those Goods subject to set off against any damages to Seller. Buyer may also require Seller to transfer title and deliver to Buyer any or all property produced or procured by Seller to perform this Purchase Order. Buyer will credit Seller with the reasonable value of the property; but not more than Seller's actual cost or the Purchase Order value, whichever is less.

#### **17. INTELLECTUAL PROPERTY**

Seller agrees: (a) to defend, hold harmless and indemnify Buyer, its successors and customers against any claims of infringement (including patent, trademark, copyright, industrial design right, or other proprietary right, or misuse or misappropriation of trade secret) and resulting damages and expenses (including attorney's and other professional fees) arising in any way in relation to the goods or services contracted, including such claims where Seller has provided only part of the goods or services; Seller expressly waives any claim against Buyer that such infringement arose out of compliance with Buyer's specification; (b) that Buyer or Buyer's subcontractor has the right to repair, reconstruct, or rebuild the specific goods delivered under the Contract without payment of any royalty to Seller; and (c) that parts manufactured based on Buyer's drawings and/or specifications may not be used for its own use or sold to third parties without Buyer's express written authorization; (d) to the extent that this Contract is issued for the creation of copyrightable works, the works shall be considered "works made for hire," to the extent that the works do not qualify as "works made for hire," Seller hereby assigns to Buyer all right, title and interest in all copyrights and moral rights therein.

## **18. INDEMNIFICATION**

Seller shall indemnify and hold harmless Buyer, and its affiliates and their respective officers, directors, shareholders, and employees (collectively, "Indemnitees") from and against any liability, claims, losses, demands or expenses (including attorney's and other professional fees) incurred or demanded by an Indemnitee arising out of, resulting from, or occurring in connection with Seller's negligence, willful misconduct, or breach of the terms of this Contract. In addition, Seller shall be obligated to undertake, at its own expense, the defense of the legal proceedings with respect to such liability, claim, loss, demand or expense; provided, however, the legal counsel selected by Seller shall be subject to the prior written approval of Buyer.

## **19. INSURANCE**

Seller shall maintain insurance coverage with carriers acceptable to Buyer in the following amounts: (a) workers' compensation: statutory limits for the state(s) in which the Contract is to be performed (or evidence of authority to self insure); (b) employer's liability: \$100,000 per accident for bodily injury by accident and \$100,000 per employee for bodily injury by disease; (c) commercial general liability covering liability arising from premises, operations, independent contractors, products/completed operations, personal injury and advertising injury, and liability assumed under an insured contract: \$1,000,000 per occurrence; and (d) automobile liability (including owned, non-owned and hired vehicles): \$1,000,000 per accident. Seller shall furnish to Buyer either a certificate showing compliance with these insurance requirements or certified copies of all insurance policies within ten (10) days of Buyer's written request. The certificate will provide that Buyer will receive thirty (30) days' prior written notice from the insurer of any termination or reduction in the amount or scope of coverage. Seller's furnishing of certificates of insurance or purchase of insurance shall not release Seller of its obligations or liabilities under the Contract.

## **20. BUYER'S PROPERTY**

All supplies, materials, tools, jigs, dies, gauges, fixtures, molds, patterns, equipment and other items furnished by Buyer, either directly or indirectly, to Seller to perform the Contract, or for which Seller has been reimbursed by Buyer, shall be and remain the property of Buyer and held by Seller on a bailment basis ("Buyer's Property"). Seller shall bear the risk of loss of and damage to Buyer's Property in Seller's possession or control. Buyer's Property shall at all times be properly housed and maintained by Seller, at its expense, shall not be used by Seller for any purpose other than the performance of the Contract; shall be deemed to be personally; shall be conspicuously marked by Seller as the property of Buyer; shall not be commingled with the property of Seller or with that of a third person; and shall not be moved from Seller's premises without Buyer's prior written approval. Buyer shall have the right to enter Seller's premises during normal business hours and upon prior notice to inspect such property and Seller's records with respect thereto. Upon the request of Buyer, Buyer's Property shall be immediately released to Buyer or delivered to Buyer by Seller, either (a) F.O.B. transport equipment at Seller's plant, properly packed and marked in accordance with the requirements of the carrier selected by Buyer to transport such property, or (b) to any location designated by Buyer, in which event Buyer shall pay to Seller the reasonable costs of delivering such property to such location. All of Buyer's property which becomes

scrap created by Seller in producing goods for Buyer under purchase orders in any calendar year (“scrap materials”) will be returned to Buyer by the 25th day of the following calendar year, unless: (1) such scrap materials will be reasonably needed by Seller to supply goods to Buyer within that following calendar year, provided however, that Buyer may at its sole discretion demand that the scrap materials be immediately returned to Buyer, or (2) Buyer requests alternate arrangements. When permitted by law, Seller waives any lien or other rights that Seller might otherwise have on any of Buyer’s Property for work performed on such property or otherwise.

## **21. SERVICE AND REPLACEMENT PARTS**

Seller will sell to Buyer goods necessary for it to fulfill its current model service and replacement parts requirements at the price(s) set forth in the Contract. If the goods are systems or modules, Seller will sell the components or parts that comprise the system or module at price(s) that shall not, in the aggregate, exceed the price of the system or module less assembly costs. During the ten-year period after Buyer completes current model purchases, Seller will sell goods to Buyer to fulfill Buyer’s past model service and replacement parts requirements. Unless otherwise agreed to by Buyer, the price(s) during the first two (2) years of this period shall be those in effect at the conclusion of current model purchases. For the remainder of this period, the price(s) for goods shall be as agreed to by the parties. When requested by Buyer, Seller shall make service literature and other materials available at no additional charge to support Buyer’s service part sales activities.

## **22. CUSTOMS; EXPORT AND IMPORT CONTROLS**

Credits or benefits resulting or arising from this contract, including trade credits, export credits or the refund of duties, taxes or fees, shall belong to Buyer. Seller shall provide all information necessary (including written documentation and electronic transaction records) to permit Buyer to receive such benefits or credits, as well as to fulfill its customs related obligations, origin marking or labeling requirements and local content origin requirements, if any. Export licenses or authorizations necessary for the export of the goods shall be the responsibility of Seller unless otherwise indicated in this contract, in which event Seller shall provide such information as may be necessary to enable Buyer to obtain such licenses or authorization(s). Seller shall undertake such arrangements as necessary for the goods to be covered by any duty deferral or free trade zone program(s) of the country of import. For Seller’s goods to be imported into the United States, Seller shall comply with and upon request, certify to Buyer compliance with, all applicable recommendations or requirements of the United States Customs Services Custom-Trade Partnership Against Terrorism (C-TPAT) initiative (for information go to: <http://www.customs.ustreas.gov/enforcem/tpat.htm>).

## **23. EXECUTIVE ORDER (EO)13224**

Supplier will adhere to the directions provided in Executive Order (EO) 13224, “Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism”, effective 9/24/2001 and any subsequent changes made to it, supplier further agrees to include their requirement in lower-tier purchase orders or subcontract hereunder. To view the contents of the EO, please access the following website: <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/terror.pdf>.



## **24. RECORD RETENTION**

Records pertaining to inspection, tests, raw material certification, acceptance, and traceability associated with this purchase order shall be maintained and available for review by SEPAC representatives upon request. Unless otherwise specified such records shall be maintained by Supplier for a minimum of fifteen (15) years after completion of purchase order.

## **25. SUPPLIER CONFLICT MINERAL REQUIREMENTS**

Suppliers who provide components, parts or materials containing tantalum, tin, tungsten, and/or gold must commit to conflict free sourcing only as defined in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Components, parts or materials, which either directly or indirectly contribute to conflict, are unacceptable. Our suppliers must define, implement and communicate to sub-suppliers their own policies, outlining their commitments to responsible sourcing, legal compliance and measures for implementation. Our suppliers must work with sub-suppliers to ensure traceability of these minerals at least to the smelter or refiner level. We may request further evidence of the supply chain upstream to the mine when necessary. Traceability information must be maintained and recorded for five years and provided to us upon request. Our suppliers are encouraged to support industry efforts to enhance traceability and responsible practices in global mineral supply chains.

## **26. NO ADVERTISING**

Seller shall not in any manner, without first obtaining the prior written consent of Buyer, advertise or publish the fact that Seller has contracted to furnish Buyer the goods or services covered by the Contract, or use any trademarks or trade names of Buyer in Seller's advertising or promotional materials.

## **27. COMPLIANCE WITH LAWS; EMPLOYMENT/BUSINESS PRACTICES**

Seller, and any goods or services supplied by Seller, shall comply with all applicable material laws, rules, regulations, orders, conventions, ordinances or standards of the country(ies) of destination or that relate to the manufacture, labeling, transportation, importation, exportation, licensing, approval or certification of the goods or services, including, but not limited to, those relating to environmental matters, data protection and privacy, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health/safety and motor vehicle safety. Seller shall inform the Buyer of contents not produced in the United States in Seller's product including, but not limited to, the country of origin and dollar value of material and labor therein. Seller further represents that neither it nor any of its subcontractors will utilize child, slave, prisoner or any other form of forced (as defined in 19 USC 1307) or involuntary labor, or engage in abusive employment or corrupt business practices, in the supply of goods or provision of services under the Contract and agrees to indemnify Buyer against liability Buyer may incur if this representation is incorrect. Seller's personnel shall in no event be considered employees of Buyer and Seller will remain responsible for all wages, taxes, benefits, payroll deductions, remittances and other obligations with respect to its personnel. In particular, Seller commits to indemnify and hold Buyer harmless with respect to any claims asserted against Buyer by individuals held out as employees of Seller who contend that Buyer is their actual employer, joint employer, primary employer, secondary employer and/or co-employer under applicable law, including claims relating to wages, overtime, taxes, leaves of absence, benefits, discrimination, harassment, and all other claims relating to their employment.

At Buyer's request, Seller shall certify in writing its compliance with the foregoing, provided that by submitting a response to a Request for Quotation, Seller certifies that it has read, understands, and is in compliance with this Section 22. Seller shall indemnify and hold Buyer harmless from and against any liability claims, demands or expenses (including attorney's or other professional fees) arising from or relating to Seller's noncompliance with this Section 22.

**28. U.S. GOVERNMENT PURCHASING**

If the Contract relates to a government contract, Seller shall comply with all applicable federal, state or local laws, rulings and regulations relating to government procurement, including applicable provisions of the Federal Acquisition Regulations (FAR). Government contract orders are also regulated by International Traffic in Arms Regulations (ITAR), which require registration as a defense-related manufacturer or exporter and prior approval of the U.S. Department of State before providing any technical data to a foreign person. If the Contract has a government rating, Seller shall follow all requirements of the Defense Priorities and Allocations System Regulation.

**29. ENTRY, AUDIT AND INSPECTION**

Seller agrees that its plant, materials, books and records so far as they relate to the performance of this or a related order (to the extent consistent with laws and regulations), shall at all practical times be subject to review, inspection and audit by any authorized representative of the Buyer, any authorized representative of the Buyer's customer, or any authorized government representative. Seller shall maintain and preserve all books and records so far as they relate to the performance under this Contract for a period of not less than seven (7) years following Seller's performance under this Contract.

**30. NO IMPLIED WAIVER**

The failure of either party at any time to require performance by the other party of any provision of the Contract shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver of either party of a breach of any provision of the Contract constitute a waiver of any succeeding breach of the same or any other provision.

**31. ASSIGNMENT**

Seller may not assign or delegate its rights or obligations under the Contract without Buyer's prior written consent. A change of control by Seller where it sells or exchanges a sufficient amount of its stock or like equity that effects a change in the control of Seller shall be deemed an assignment hereunder and shall also be prohibited without Buyer's prior written consent. Seller may subcontract its obligations only with the prior written consent of Buyer provided that such subcontractor abides by these same terms and conditions.

**32. RELATIONSHIP OF PARTIES**

Seller and Buyer are independent contracting parties and nothing in the Contract 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.

**33. GOVERNING LAW; JURISDICTION**

The Contract is to be construed according to the laws of the State of New York, without regard to any conflicts of law principles or provisions that would require application of the substantive laws of another

jurisdiction. Any action or proceedings by Buyer against Seller may be brought by Buyer in any court(s) having jurisdiction over Seller or, at Buyer's option, in the court(s) having jurisdiction over Buyer's location, in which event Seller consents to jurisdiction and service of process in accordance with applicable procedures. Any actions or proceedings by Seller against Buyer may be brought by Seller only in the court(s) having jurisdiction over the location of Buyer from which this contract is issued.

**34. SEVERABILITY**

If any provision of the Contract is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such provision shall be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of the Contract shall remain in full force and effect.

**35. ENTIRE AGREEMENT; MODIFICATION**

The Contract, together with any attachments, exhibits, supplements, schedules, purchase orders, Statement of Requirements or other terms of Buyer specifically referenced in these Terms and Conditions, constitute the entire agreement between Seller and Buyer with respect to the matters contained in the Contract and supersedes all prior oral or written agreements. No amendment to the Contract or these Terms and Conditions shall be binding on either party unless such amendment is in writing and signed by authorized representatives Buyer.