

**TERUMO CARDIOVASCULAR SYSTEMS CORPORATION
PURCHASE ORDER TERMS AND CONDITIONS**

1. **ACCEPTANCE, ENTIRE AGREEMENT, AND MODIFICATION:** Acceptance of this Purchase Order (“Order”) shall be limited to the terms of the Order and these terms and conditions. All goods and products (tangible and intangible, including software) and services (whether or not ancillary to a sale of goods) to be provided under this Order are included in the term “Goods.” This Order shall be deemed accepted upon written acceptance by Terumo Cardiovascular Systems Corporation or its affiliated companies (“Buyer”); or commencement of performance by Seller. Buyer rejects any additional or inconsistent terms and conditions offered by Seller at any time and irrespective of Buyer’s acceptance of or payment for Seller’s Goods or services. This Order may not be added to, modified, superseded or otherwise altered, except by a written instrument signed by an authorized representative of Buyer and delivered by Buyer to Seller (a “Signed Writing”). Each shipment received by Buyer from Seller shall be solely upon the terms and conditions contained in this Order except as they may be added to, modified, superseded or otherwise altered in a Signed Writing, notwithstanding any terms and conditions that may be contained in any acknowledgment, invoice or other form of Seller and notwithstanding Buyer’s act of accepting or paying for any shipment or similar act of Buyer.

2. **CHANGES:** Seller shall not make any changes in the Goods, regardless of whether the change is called out in the raw material specifications or drawings, without advance notification to and written approval by Buyer. Additionally, Seller shall not make any material changes in its quality system/status, source of materials, site of manufacture, composition of any raw material, method of producing, processing or testing, the contractors for producing, processing or testing, component specifications or instructions for use, without advance notification to and written approval by Buyer. Buyer may, at any time, make changes in any one or more of the following: (i) drawings, designs or specifications for the Goods, (ii) method of shipment or packing; (iii) place or time of inspection, delivery or acceptance; and (iv) the amount of any Buyer furnished property. If any such change causes an increase or decrease in the cost of or the time required for performance of this Order, an equitable adjustment shall be made in the price or delivery schedule or both. No claim by Seller for adjustment hereunder shall be allowed unless made in writing by the parties within twenty (20) days from the date of notice of any such change is received by Seller. Seller shall provide Buyer with such additional information, including invoices and agreements as Buyer may reasonably request in order to permit Buyer to evaluate Seller’s claim for adjustment. Nothing in this clause shall excuse Seller from proceeding with performance of this Order as changed.

3. **INVOICES:** All invoices and/or shipping notices for Goods shipped pursuant to this Order must include packing slips, and also must reference the Order number, Buyer’s Part Number, Seller’s Part Number (where applicable), quantity of Goods, and Seller’s name and number and Bill of Lading number, before any payment will be made by Buyer for the Goods. Buyer reserves the right to return all invoices or related documents submitted incorrectly, and payment terms will be determined as of the date of the last correct invoice or shipping notice received. Where Goods are not supplied in accordance with the Order, Buyer shall be entitled to withhold payment of the respective amount of the price until Seller has fulfilled its obligations in

full. Invoices must be rendered in duplicate not later than the day following shipment unless the Seller and Buyer agree to other dates.

4. DELIVERIES, MARKINGS, AND SHIPMENTS:

a. Seller shall make deliveries under this Order strictly in accordance with Buyer's instructions. Unless otherwise specified in this Order, no variation in the quantity of any Goods is authorized and Buyer may reject a delivery that varies in the quantity authorized for shipment. The specific quantity of Goods ordered must be delivered in full and not be changed without the Buyer's written consent. Goods shipped in advance of Buyer's delivery schedule may be returned at Seller's expense. Buyer may, in its sole discretion, retain possession of Goods shipped in advance and charge Seller for any storage or other associated costs. Seller shall give notice of shipment to Buyer at the time of shipment of Goods. Seller shall notify Buyer of any delay in shipment.

b. Time is of the essence. Seller's obligations relating to time for production and/or delivery of the Goods are integral parts of and conditions of this Order. If delivery of the Goods is likely to be delayed, Seller shall immediately notify Buyer in advance, provided that such notice does not release Seller from its liabilities for all costs, losses and consequential damages resulting from incomplete or delayed delivery. It is understood and agreed that Buyer is relying on delivery of the Goods on the date so specified and that any delay in delivery of Goods, regardless of cause and regardless of whether Seller had any control over the cause that resulted in delay, will result in significant damages to Buyer.

c. Seller shall be responsible for all extra charges incurred because of Seller's failure to follow Buyer's shipping instructions, including those related to delivery schedules, whether or not Seller's liability for general damages is excused under other provisions of this Order. In the event that the delivery schedule is endangered, Seller shall pay all express air shipment and other charges necessary to expedite delivery to enable Seller to meet the delivery schedule. In the event that delivery is late, Seller shall ship at its expense all late shipments by express or other priority methods of delivery as may be specified by Buyer. Seller shall be responsible for costs and damages incurred by Buyer, directly or indirectly, as a result of or caused by endangered delivery schedule or late delivery.

5. PRICES, PAYMENT TERMS, TAXES:

a. Seller warrants that the prices in the Order are fixed and complete, and no additional charges of any type shall be added without Buyer's express written consent, including but not limited to, shipping, packaging, labeling, custom duties, federal, state and local taxes, storage, insurance, boxing and crating.

b. If prices are not stated in a Purchase Order, it is agreed that the Goods shall be billed at the price last quoted, or billed at the prevailing market price, whichever is lower.

c. Payment terms are net 30 days unless otherwise specified in the Order. It is understood that the cash discount period will be the date from the receipt of the Goods or from

the date of the invoice, whichever is later. C.O.D. shipments will not be accepted. Drafts will not be honored.

d. Seller warrants that the price for the Goods is no less favorable than those currently extended to any other customer for the same or similar Goods in similar quantities during the 12 months immediately preceding an Order. If Seller reduces its price for the same or similar Goods to other customers, Seller shall reduce the prices to Buyer to the same prices. Buyer shall also receive the full benefit of all discounts, premiums and other favorable terms of payment customarily offered by Seller to its best Customers.

e. In addition to any right of setoff or recoupment provided or allowed by law, all amounts due Seller, or any of its subsidiaries or affiliates shall be considered net of indebtedness or obligations of Seller, or any of its subsidiaries or affiliates to Buyer or any of its subsidiaries or affiliates, and Buyer or any of its subsidiaries or affiliates may setoff against or recoup from any amounts due or to become due from Seller, or any of its subsidiaries or affiliates to Buyer or any of its subsidiaries or affiliates however and whenever arising. In the event that Buyer or any of its subsidiaries or affiliates reasonably feels itself at risk, Buyer or any of its subsidiaries or affiliates may withhold and recoup a corresponding amount due Seller or any of its subsidiaries or affiliates to protect against such risk.

f. An “affiliate” of a party means any other company that controls, is controlled by, or is under common control with such party. For purposes of this definition, the term “control” means the ownership, directly or indirectly, of twenty percent (20%) or more of the capital or equity of a company or the ability, by voting securities, contract or otherwise, to elect a majority of the board of directors or other governing body of such company.

g. If an obligation of Seller or any of its subsidiaries or affiliates to Buyer or any of its subsidiaries or affiliates is disputed, contingent or unliquidated, Buyer or any of its subsidiaries or affiliates may defer payment of all or any portion of the amount due until such obligation is resolved. Without limiting the generality of the foregoing and by way of example only, in the event of a bankruptcy of Seller, if all of the Orders between Buyer and Seller have not been assumed, then Buyer may defer payment to Seller, via an administrative hold or otherwise, for Goods against potential rejection and other damages.

6. COMPLIANCE WITH LAWS:

a. Seller warrants that it shall comply with, and that all Goods sold or furnished under this Order shall conform to, all applicable federal, state and local laws, executive orders, rules and regulations during the performance of this Order, including by not limited to the Occupational Safety and Health Act of 1970, as amended (“OSHA”), Toxic Substances Control Act, as amended (“TSCA”), Resource Conservation and Recovery Act of 19756, as amended (“RCRA”), Fair Labor Standards Act of 1938, as amended (“FLSA”), and the Economic Stabilization Act of 1970, as amended (“ESA”).

b. Seller shall, where applicable: (i) comply with the North American Free Trade Agreement and the North American Free Trade Agreement Implementation Act; (ii) warrant that all sales made hereunder shall be in compliance with the United States Anti-Dumping Law and Seller will indemnify, defend and hold Buyer harmless from and against any and all costs or expenses arising out of or in connection with any breach of this warranty; and (iii) upon request, furnish promptly certificates of local value added in accordance with government regulations pertaining thereto.

c. Unless otherwise exempted under rules and regulations of the secretary of Labor, Seller agrees to comply, during performance of this Order, with all required contract laws relative to Equal Employment Opportunity/Affirmative Action which are incorporated herein by specific reference to Executive Order 11246, as amended, as well as the following indicated Code of Federal Regulations reference, Equal Opportunity (41 CFR Part 60 1.4) Affirmative Action for Disabled Veterans and Veterans to the Vietnam Era (41 CFR Part 60 250.4), and Affirmative Action for Handicapped Workers (41 CFR Part 60 741.4).

d. Seller agrees to indemnify and hold Buyer and its customers harmless for any loss, damage or expenses, including attorney's fees, sustained because of Seller's non-compliance with the requirements of this Paragraph 6.

7. **WARRANTY:** Seller warrants and represents that all Goods shall be (a) in strict compliance with the specifications, samples, drawings, designs or other requirements (including performance specifications) approved or adopted by Buyer; (b) merchantable and will be of good material and workmanship and free from all defects including but not limited to design, workmanship and materials; (c) selected, designed, manufactured and assembled by Seller based on Buyer's intended use and will be fit and sufficient for the use and purpose intended by Buyer; (d) in strict compliance with all applicable industry standards, quality control and inspection standards, and all statutes, rules and regulations, of any kind or nature, including those promulgated by any government or governmental agency in the United States and in countries in which Buyer has informed Seller the Goods furnished hereunder and/or the Goods into which such Goods are to be incorporated are likely to be used; (e) free from all liens and encumbrances; and (f) free from all patent, trademark, copyright, trade secret or other intellectual property right infringement or claims. As to each of the Goods, each of Seller's warranties begins on the date of delivery to Buyer and continues until the last to occur of the following: (A) the expiration of all warranties made by Buyer to its customer concerning Buyer's product incorporating the Goods; or (B) the expiration of the longest time period which Buyer's customer may be required, by contract of law, to repair or replace the Goods or Buyer's product incorporating the Goods, if the Goods are defective or nonconforming to any warranties. The statute of limitations period applicable to any breach of warranty will be the longest statute of limitation period for breach of contract, products liability or indemnity claims in any jurisdiction of the United States or, in the case of any recall campaign, the longest time period dictated by the U.S. federal, state, or foreign government where the Goods are used. Approval by Buyer of Seller's design, drawings, specifications, samples, etc. does not waive or limit any warranty.

8. **DEFECTIVE OR NONCONFORMING GOODS/BREACH OF WARRANTY:** In the event of Seller's delivery of defective or nonconforming Goods or Seller's breach of warranty, Buyer may at its election and in addition to any other rights or remedies it may have a

law or equity or under this Order, exercise one or more of the following remedies: (a) recover from Seller any costs of removing such Goods from property, equipment or products in which such Goods have been incorporated and any additional costs of reinstallation, reinspection and retesting; (b) return the Goods at Seller's risk and expense and recover from Seller the price paid thereof and, if elected by Buyer, purchase or manufacture similar Goods and recover from Seller the costs and expenses thereof; (c) accept or retain the Goods and equitably reduce their price; and (d) require Seller, at Seller's expense, to promptly replace or correct the Goods and pending redelivery to pay to Buyer any amount theretofore paid for such Goods. Seller shall further be liable to Buyer for all consequential and incidental damages, including lost profits, incurred by Buyer as a result of the Seller's breach of warranties or delivery of defective or nonconforming Goods. Seller shall indemnify and hold harmless Buyer, its employees, agents and invitees from and against all liability, demands, claims, losses, costs, damage and expenses (including reasonable attorney fees) by reason of or on account of any breaches of warranty by Seller, its employees, agents and invitees.

9. **RECALL:** In the event any of the Goods fail to conform to the warranty of Seller hereunder or constitutes a safety related defect, including but not limited to failure to meet industry state of art, and Buyer, Buyer's customer, or any appropriate governmental agency or non-governmental organization orders or requests that a recall campaign or remedial action in lieu of a recall campaign be undertaken, Seller will bear the cost and expense of any recall campaign or such remedial action and shall, without charge, provide replacement Goods as needed. Seller shall reimburse Buyer for all costs, damages and expenses incurred by Buyer or its related entities arising out of a recall campaign or remedial action in which any Goods supplied by Seller are alleged to be defective or to breach the warranty hereunder. Buyer shall give written notice to Seller, keep Seller informed and consult with Seller on actions to be taken. Seller shall immediately notify Buyer of any information Seller may possess regarding any product related incidents and shall fully cooperate with Buyer in responding to inquiries by any Federal and State agency related to the products. Buyer shall have the right to perform a full investigation including but not limited to inspection and testing of the products involved, vehicle history, reports, analysis, and tests performed by or in the possession of Seller. Seller agrees to supply to Buyer all field and production tests, repair/replacement parts for products requested or required by Buyer to correct any defect or alleged defect in the part or product supplied by Seller. Buyer shall not have any responsibility for any such recall campaign or remedial action cost or expense, or portion thereof. The term "recall campaign" shall mean any such systematic effort to locate Goods, suspected, believed to be or known to be defective and installed in vehicles or vehicle components, and to replace, repair, modify or correct such Goods regardless of whether such recall campaign is initiated by Buyer, Buyer's customer, any governmental or regulatory body or any other entity.

10. **INDEMNIFICATION AND INSURANCE:**

a. Seller shall indemnify and hold harmless Buyer, its employees, agents and invitees from and against all liability, demands, claims, losses, costs, damage and expenses (including reasonable attorney fees) by reason of or on account of property damages, personal injury, death or other claims arising out of, as result of, or in connection with the performance of this Order, which is occasioned by: (a) defect in the Goods; (b) breach of this Order, including breach of warranty; and (c) acts of Seller, its employees, agents and invitees. The Seller waives

the application of the doctrine of comparative negligence and other doctrines that may otherwise allocate the liability covered by Seller's indemnity. Upon becoming aware of such a claim, demand, suit or action, Buyer shall notify Seller and Seller, at Buyer's option, and at Seller's expense, will undertake defense of such a claim, demand, suit or action through counsel approved by Buyer, provided that Seller shall first obtain authorization from Buyer before settlement is made of the claim, demand, suit or action if, the terms of such settlement could materially adversely affect Buyer, including any terms which admits the existence of a defect in Goods or a failure of Buyer to fully and faithfully perform its obligations. In the alternative, Buyer may elect to undertake defense of such a claim, demand, suit or action, to the extent it is asserted against Buyer, and Seller shall reimburse Buyer on monthly basis for all expenses, attorney fees, and other costs incurred by Buyer.

b. Seller shall procure and maintain at its sole expense insurance, with reputable insurance companies, that adequately covers Seller's liability against Buyer and third parties. Buyer is entitled to require certain insurance coverage, including products liability, employer's liability, workman's compensation, general liability, public liability, property damage liability, completed operations liability, recall liability, business interruption and contractual liability, in the amounts acceptable and approved by Buyer. Seller shall provide to Buyer proof of such insurance upon Buyer's request. Such policies shall provide cancellation only upon written notice to Buyer. Failure by Buyer to request proof of insurance from Buyer shall not constitute a waiver of the requirements provided for in this Section.

11. TERMINATION/CANCELLATION:

a. In addition to any other rights of Buyer to cancel or terminate an Order, Buyer may at its option immediately terminate all of any part of an Order for Buyer's convenience, at any time and for any or no reason by giving written notice to Seller. Upon receipt of notice of termination, Seller unless otherwise directed by Buyer shall: (i) terminate promptly all work under this Order; (ii) transfer title and delivery to Buyer the finished work, the work-in-progress and the parts and materials which Seller procured or acquired in accordance with this Order and which Seller cannot use in producing Goods for itself or for others; (iii) settle claims by subcontractors, if any, for actual costs that are rendered unrecoverable by such termination; and (iv) take actions reasonably necessary to protect property in Seller's possession in which the Buyer has an interest. Upon such termination for convenience, Buyer shall pay to Seller the following amounts without duplication: (i) the Order price for all conforming Goods which have been completed in accordance with Buyer's Orders; (ii) Seller's reasonable actual costs of the work-in-progress and parts and material furnished to Buyer in accordance with the provisions of this paragraph; (iii) Seller's reasonable actual costs of settling with its subcontractors provided Seller obtains Buyer's prior approval of such amount; (iv) Seller's reasonable actual costs of protecting property in its possession in which Buyer has an interest.

b. Buyer shall not be liable to pay for work in process or raw materials fabricated or processed by Seller in amounts in excess of those authorized in the Order, for any undelivered Goods which are Seller's standard stock or which are readily marketable, or for any finished Goods which are not promptly delivered to Buyer after request by Buyer.

c. Except as provided in this Section, 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 cost or rental, unamortized depreciation costs, or general and administrative burden charges arising from termination of an Order. Within twenty-one (21) 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 agent shall have the right to audit and examine all books, records, facilities, work material, inventories and other Goods relating to any termination claim of Seller. Payment under this Section shall constitute the only liability of Buyer if an Order is terminated to Buyer for its convenience. Termination of an Order does not affect Seller's obligations under this Order as to Goods delivered or obligations not dependent upon the delivery of Goods.

d. Buyer reserves the right to terminate this Order in whole or in part for default if: (i) Seller fails to perform in accordance with any of the requirement of this Order to make progress so as to endanger performance hereunder; (ii) Seller breaches or defaults under any agreement between Buyer and Seller; or (iii) Seller becomes insolvent or suspends its operations or if any petition is filed or proceeding commenced by or against Seller under any State or Federal law related to bankruptcy, arrangement, reorganization, receivership or assignment for the benefit of creditors. Any such termination will be without liability to Seller except for completed Goods delivered and accepted by Buyer, payment for which can be setoff against any damages due to Buyer. Buyer may require Seller to transfer title and deliver to Buyer any and all property produced or procured by Seller for performance of the work terminated and Seller shall be credited with the reasonable value thereof not to exceed Seller's cost. Seller will be liable for damages caused by or resulting from its default including but not limited to excess of cost of procurement. Buyer shall, in addition, have all other rights provided by law arising from Seller's default. If after a default termination, it is determined that Seller was not in default, the termination shall be considered to have been made by Buyer at its convenience pursuant to the preceding paragraphs.

12. **INSPECTION AND ACCEPTANCE:** Notwithstanding payment, passage of title, or prior inspection or testing, all Goods are subject to final inspection and acceptance or rejection at the destination stated herein. At reasonable times during the period of Seller's performance hereunder, including the period of manufacture, Buyer and its customers may inspect and/or test the Goods to be furnished hereunder at the plants where the work is being performed or the Goods are being produced and designed, including those of the Seller's Sellers, and Seller shall provide, without additional charge, reasonable facilities and assistance for safe and convenient inspection and testing. Such inspection shall not obviate any warranty or constitute acceptance of the Goods. Seller shall provide and maintain quality control and inspection systems acceptable to Buyer. Payment for Goods on this Order prior to inspection shall not constitute acceptance thereof and is without prejudice to any and all claims that Buyer may have against Seller. Seller shall comply with the provisions of Buyer's current Seller manual. Defective or nonconforming Goods may be returned to Seller for full credit or replacement at Buyer's option and at the Seller's risk and expense, including transportation charges both ways. Buyer may

reject non-conforming Goods and shall not be required to accept replacements or substitutes or permit cure of defects in any Goods rightfully rejected.

13. INTELLECTUAL PROPERTY:

a. Seller grants to Buyer a worldwide, nonexclusive, royalty-free, irrevocable license to repair and have repaired, to reconstruct and have reconstructed, to make or have made the Goods ordered hereunder. Seller assigns to Buyer all right, title and interest in and to all trademarks, copyrights, industrial design rights, drawings, data, designs, engineering instructions, models, specifications or other technical information, written, oral or otherwise, in any Goods prepared for Buyer in connection with this Order. Technical information and data furnished to Buyer in connection with this Order are disclosed on a non-confidential basis. To the extent that, by operation of law, Seller owns any intellectual property rights in the Goods, Seller hereby assigns to Buyer all rights, title and interest, including copyrights and patent rights in such Goods. Seller shall ensure that any subcontractors to Seller shall have contracts with Seller in writing consistent with the terms of this section.

b. Seller warrants that neither the use nor the sale of the Goods infringes any United States or foreign patent, trademark, copyright or industrial design right. Seller further agrees to defend, hold harmless and indemnify Buyer, its successors, employees and agents, against all claims, demands, losses, suits, damages, liability and expenses (including reasonable attorneys fees) arising from any suit, claim or action for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, copyright or industrial design right by reason of the manufacture, use or sale of the Goods including infringement arising out of compliance with specifications furnished by Buyer or for actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Seller's actions. Seller further agrees to waive any claim against Buyer, including any hold harmless or similar claim, in any way related to a claim asserted against Seller or Buyer for patent, trademark, copyright or industrial design right infringement or the like, including claims arising out of compliance with specification furnished by Buyer. Upon becoming aware of such a claim, demand, suit or action, Buyer shall notify Seller and Seller, at Buyer's option, and at Seller's expense, will undertake defense of such a claim, demand, suit or action through counsel approved by Buyer, provided that Seller shall first obtain authorization from Buyer before settlement is made of the claim, demand, suit or action. In the alternative, Buyer may elect to undertake defense of such a claim, demand, suit or action, to the extent it is asserted against Buyer, and Seller shall reimburse Buyer on monthly basis for all expenses, attorney fees, and other costs incurred by Buyer.

14. ASSIGNMENT, SUBCONTRACTING: Any assignment of this Order or the work to be performed, in whole or in part, or of any other interest hereunder without Buyer's written consent, except an assignment confined solely to monies due or to become due hereunder, shall be void. Any such assignment of monies shall be void to the extent that it attempts to impose upon Buyer obligations to the assignee additional to the payment of such monies, or to preclude Buyer from dealing solely and directly with Seller in all matters pertaining hereto, including the negotiation of amendments or settlements of amounts due, or to preclude Buyer from any right of setoff or recoupment arising out of this or any other transaction. In the event of any such assignment of monies due or to become due, Seller will file, in addition to a written notice of

assignment, a true copy of the instrument of assignment with Buyer. Seller agrees not to subcontract for any complete or substantially completed materials, supplies and/or services called for by this Order without the prior written approval of Buyer. In the event that Seller does use sub-contractors, Seller shall ensure that all and any of its sub-contractors are contractually bound to the Order and these terms and conditions.

15. **RISK OF LOSS.** The risk of loss of any Goods shall not pass to Buyer until delivery of such Goods to Buyer at its plant or other place of receipt designated by Buyer.

16. **RIGHTS AND REMEDIES OF BUYER:** The rights and remedies of Buyer set forth herein shall be in addition to any other rights and remedies provided in law or equity and the failure of delay by Buyer to exercise any rights or remedies under this Order shall not operate as a general waiver thereof. No course of dealings between Seller and Buyer or any delay or omission of Buyer to exercise any right or remedy granted hereunder shall operate as a waiver of such rights, and every right and remedy of Buyer provided herein shall be cumulative, concurrent and in addition to any other further rights and remedies available to law or in equity. IN NO EVENT SHALL BUYER BE LIABLE TO SELLER FOR ANTICIPATED PROFITS OR FOR PUNITIVE, EXEMPLARY, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. 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 any other alleged losses or costs, whether denominated as loss of anticipated profit, recoupment of investment, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, general and administrative burden charges resulting from termination of the Order or otherwise. Notwithstanding anything to the contrary, Buyer's obligation to Seller upon termination of any Order shall not exceed the obligation Buyer would have had to Seller in the absence of termination of such Order.

17. **CHOICE OF LAW/FORUM:** The construction, interpretation and performance hereof and all transactions under shall be governed by the law of the State of Michigan, without regard to principles of conflicts of law. The United Nations Convention on the International Sale of Goods is expressly excluded. Seller consents to the exclusive jurisdiction of the appropriate state court in Washtenaw County, Michigan or, if jurisdiction exists, in the federal court in the U.S. District Court for the Eastern District of Michigan, Southern Division, for any legal or equitable action or proceeding arising out of, or in connection with, each Order. Seller specifically waives any and all objections to venue in such courts.

18. **SEVERABILITY:** The Terms and Conditions of this Order are severable and if any term, condition or portion of any term or condition is stricken or declared illegal, invalid or unenforceable for any reason whatsoever, the legality, validity, or enforceability of the remaining Terms and Conditions shall be not be affected thereby.

19. **FORCE MAJEURE:** Any delay or failure of either party to perform its obligations shall be excused if it is caused by an extraordinary event beyond the control of the nonperforming party and without the nonperforming party's fault or negligence, such as acts of God, fires, floods, windstorms, explosions, riots, natural disasters, wars and sabotage. Written notice of such delay, including the anticipated duration of the delay, must be given by the nonperforming party within two (2) days of the event. During the period of any delay or failure to perform by

Seller, Buyer, at its option, may purchase goods from other sources and reduce its schedules to Seller by such quantities, without liability to Buyer, or cause Seller to provide the goods from other sources in quantities and at times requested by Buyer and at the price set forth in this agreement. If requested by Buyer, Seller shall, within five (5) days of such request, provide adequate assurance that the delay will not exceed such period of time as Buyer deems appropriate. If the delay lasts more than the time period specified by Buyer, or Seller does not provide adequate assurance that the delay will cease within such time period, Buyer may, among its other remedies, immediately cancel this agreement without liability. If a force majeure event continues for longer than five (5) calendar days, then Buyer, at its sole option, may terminate any Order affected thereby or the Agreement in whole or in part without any obligation or liability except that Buyer, at its sole option, may terminate any Order affected thereby or the Agreement in whole or in part without any obligation or liability except that Buyer is still responsible for payment for Goods or services which have been delivered to and accepted by Buyer prior to force majeure notice receipt. Buyer may cancel any Order at any time prior to delivery or performance if its business is interrupted for reasons beyond Buyer's reasonable control. Buyer shall give prompt notice of such cancellation to Seller. Seller acknowledges and agrees that the following will not excuse performance by Seller under theories of force majeure, commercial impracticability or otherwise and Seller expressly assumes these risks: (i) change in cost or availability of materials, components or services based on market conditions, supplier actions or contract disputes; (ii) failure of Seller's internal business systems related to the proper processing of date information that results in any defect or failure in products or services, deliveries, or any other aspect of performance by Seller or its subcontractors; or (iii) poor business judgment or estimates, currency fluctuations, labor shortages, or unanticipated engineering or technical difficulties.

20. **CUSTOMS AND ORIGIN:** For customs purposes, Seller shall prepare and expedite any and all required forms and submit them to Buyer within fourteen (14) days of Seller's receipt of the forms. Seller shall attach to the shipping documents a commercial invoice in duplicate. Should additional documents be required in the case of imports or exports in order to provide proof of the intended use of the Goods delivered, Seller shall procure all such documents for Buyer without delay and make them available to Buyer at Seller's cost. Seller shall be bound by and shall warrant the accuracy of all invoices, documents, and information furnished to Buyer by Seller or its agent for export, entry, or other purposes. Seller shall provide a declaration of origin for the Goods being supplied. In the event the Goods being supplied are eligible to receive preferential treatment in the import country, Seller shall provide with each shipment a declaration of origin suitable to the items being supplied. For Goods delivered from any point within the NAFTA territory (Canada, Mexico and the United States of America), Seller shall provide, with its invoice, a North American Free Trade Agreement Certificate of Origin on U.S. Customs Form 434 or the corresponding Canadian or Mexican form. Unless otherwise agreed, all customs drawback will be credited to Buyer and Seller shall transfer to Buyer all customs duty and import drawback will be credited to Buyer and Seller shall transfer to Buyer all customs duty and import drawback rights, if any (including rights developed by substitution and rights which may be acquired from Seller's Sellers), related to the Goods and which Seller can transfer to Buyer. Seller agrees to inform Buyer promptly of any such rights. Upon request, Seller shall furnish promptly all documents required for customs drawback purposes, properly completed in accordance with applicable government regulations. Where applicable, Seller shall provide a properly executed Customs Form 7552 entitled "Delivery Certificate for Purposes of Drawback".

Seller shall mark the Goods with their country of origin unless otherwise instructed in writing by Buyer. Seller shall inform Buyer immediately in writing of any change of origin of Goods. If Seller supplies Goods from a country that benefits from a trade agreement, Seller shall transfer to Buyer those benefits. Unless otherwise agreed upon, customs clearance shall be the responsibility of the Seller. Seller has no authority to bind Buyer with respect to liability for duties, fees, penalties or other payments or to make representations to customs authorities on its behalf without prior written approval from Buyer. Seller hereby agrees to indemnify Buyer against liability for, and hold Buyer harmless from, any and all customs duties, fees, penalties or other amounts due with respect to the exportation of materials or components furnished by Buyer from the United States to the country of assembly and importation into the United States of products assembled in whole or in part of Buyer's materials or components.

21. **MATERIAL, LOT CONTROL, AND TRACEABILITY:** Seller shall provide with each shipment, material certifications, statistical process control data and all required test data as specified on the prints or other technical standards. Seller shall also maintain lot control traceability in such manner that each shipment pursuant to this Order shall be traceable through the manufacturing process and with respect to materials contained herein.

22. **DRAWINGS AND DATA:** All drawings, data, designs, engineering instructions, models, specifications or other technical information, written, oral or otherwise, supplied by or on behalf of Buyer specifically in connection with performance of this Order and all information obtained therefrom or as a result thereof (hereinafter "Information") shall be and remain the property of Buyer. Except as required for the efficient performance of this Order, Seller shall not use such Information or make copies or permit copies to be made of such information without the prior written consent of Buyer. If any reproduction by Seller is made without prior written consent of Buyer, notice referring to the requirements of this paragraph shall be stamped or otherwise provided on the reproductions by Seller. Where Information is furnished to Seller's Sellers for procurement of supplies by Seller for use in the performance of this Order, Seller shall insert the substance of this provision in its orders. Upon completion or termination of this Order, Seller shall promptly return to Buyer all materials incorporating any Information and copies thereof.

23. **SELLER FINANCIAL AND OPERATIONAL CONDITION:** Seller represents and warrants to Buyer as of the date of each Order that it is not insolvent and is paying all debts as they become due; that it is in compliance with all loan covenants and other obligations; that all financial information provided by Seller to Buyer concerning Seller is true and accurate; that such financial information fairly represents Seller's financial condition; and that all financial statements of Seller have been prepared in accordance with generally accepted accounting principles, uniformly and consistently applied. Seller shall permit Buyer and its representatives to review Seller's books and records concerning compliance with each Order and Seller's overall financial condition and agrees to provide Buyer with full and complete access to all such books and records for such purpose upon Buyer's request. Seller agrees that, if Seller experiences any delivery or operational problems, Buyer may, but is not required to, designate a representative to be present in Seller's applicable facility to observe Seller's operations. Seller agrees that, if Buyer provides to Seller any accommodations (financial or other) that are necessary for Seller to fulfill its obligations under any Order, Seller shall reimburse Buyer for all costs, including attorneys' and other professionals' fees, incurred by Buyer in connection with such

accommodation and shall grant a right of access to Buyer to use Seller's premises, machinery, equipment and other property necessary for the production of Goods covered by such Order (and a lien to secure the access right) under an access and security agreement.

24. **SELLER INSOLVENCY:** Buyer may immediately terminate each Order without any liability of Buyer to Seller upon the occurrence of any of the following or any other similar or comparable event (each, a "Seller Insolvency"): (i) insolvency of Seller; (ii) Seller's inability to promptly provide Buyer with adequate and reasonable assurance of Seller's financial capability to perform timely any of Seller's obligations under any Order; (iii) filing of a voluntary petition in bankruptcy by Seller; (iv) filing of an involuntary petition in bankruptcy against Seller; (v) appointment of a receiver or trustee for Seller; or (vi) execution of an assignment for the benefit of creditors of Seller.

25. **ENTIRE AGREEMENT:** This Order, the attachments, exhibits and supplements specifically referred to in this Order, are intended by the parties as a complete and exclusive statement of the terms of their agreement. It supersedes all prior agreements, written or oral. No course of prior dealings between the parties and no usage of the trade may be used by Seller to supplement or explain any term used in an Order. In addition, Buyer's supplier manuals and other manuals, guidelines and requirements available from time to time on the Buyer's web site at are incorporated by reference.

REV SEPTEMBER 2007