

PURCHASING ORDER TERMS AND CONDITIONS

Revision History		
REVISION	DATE	DESCRIPTION
0, Original	3/27/2025	Basic Issue
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COMMERCIAL PURCHASE ORDER TERMS AND CONDITIONS

1. DEFINITIONS

- a. The following terms, as used herein, shall have the following meanings, unless the parties agree in writing to a different definition, or the term is otherwise defined by applicable U.S. Federal or state law:
 - i. "Terms and Conditions" means the rules, regulations, requirements, and expectations governing the Purchase Order including these Terms and Conditions for Orders under Commercial Contracts.
 - ii. "BUYER", "GHM", or "Purchaser", means Graham Corporation, having its principal place of business at 20 Florence Avenue, Batavia, NY 14020.
 - iii. "BUYER's Procurement Representative" is the individual person employed by BUYER responsible for issuing and administering the Purchase Order.
 - iv. "Government" or "Federal" as used herein refers to the "United States of America", unless stated otherwise.
 - v. "Lower-tier Subcontract" means any agreement to procure goods or services entered into by the SELLER or SELLER's subcontractor(s) in furtherance of the performance of a Purchase Order.
 - vi. "Parties" shall mean the BUYER and SELLER entities entering into this Purchase Order Agreement; "Party" may refer to either BUYER or SELLER.
 - vii. "Prime Contract" means a written instrument issued by BUYER's customer, for the acquisition of products or services.
 - viii. "Purchase Order" or "Order" is the legally binding written instrument setting forth BUYER's procurement requirements for Hardware and/or Services from SELLER, and the respective obligations of each Party in performance thereunder.
 - ix. "SELLER", or "Contractor" means the entity (i.e. person, firm, agency, company, corporation etc.) to whom a Purchase Order (or Letter Contract etc.) is awarded.
 - x. "Hardware" means all material, equipment, systems, parts, components, tangible articles or items described by a part or serial number and/or otherwise identified as a deliverable in the Purchase Order and which is subject to inspection pursuant to Article 8 "INSPECTION", herein.
 - xi. "Services" means the expenditure of time and effort by the SELLER, to produce defined outcomes (other than Hardware), that are identified as a deliverable, purpose or objective in a statement of work or scope of services. Examples of Services include but are not limited to, material processing, design, development, engineering, cleaning, janitorial, repair, maintenance, accounting, architecture, testing, analysis, and consulting. For the avoidance of doubt, the expenditure of ancillary time and effort by SELLER to build, manufacture, produce or assemble Hardware pursuant to an Order to sell Hardware to BUYER, is not a Service.
 - xii. "Work" means all required articles, materials, supplies, Hardware, products, Services and performance requirements constituting the subject matter of a Purchase Order under this Agreement.

2. HEADINGS. Headings used herein are for convenience only and shall not limit in any way the scope or interpretation of any part, clause, term, requirement, or condition. SELLER shall bring any question regarding applicability of a particular part, clause, term, condition and/or requirement to the attention of BUYER's Procurement Representative.

3. ACCEPTANCE. This Purchase Order is deemed accepted by SELLER on the earlier of SELLER executing and returning to BUYER a signed copy of this Purchase Order or commencement of performance by Seller. This offer to purchase is expressly conditioned on SELLER's acceptance of all the terms and conditions hereof, which shall take precedence over any inconsistent,

contradictory or additional terms and conditions contained in any quotation, sales acknowledgement or other document furnished by SELLER in connection with this transaction, whether such documents are exchanged simultaneously with this offer or prior thereto.

- a. Acceptance of the Purchase Order based upon terms and conditions that purport to modify, supersede, or otherwise alter the Terms and Conditions of the Purchase Order shall not be binding upon BUYER.
- b. Each Party agrees that the Parties may electronically sign the Purchase Order, and that such electronic signatures are intended to authenticate this writing and to have the same force and effect as manual signatures.
- c. All contractual requirements, terms, and conditions to which SELLER has not taken exception in writing are accepted "as-is" without alteration.
- d. The Terms and Conditions, the Purchase Order, and all references, attachments, and supplements thereto, constitutes the entire agreement between the Parties, superseding all prior or contemporaneous communications, representations, agreements, and understandings, oral or written, between the Parties. Except for SELLER's certifications and representations most recently filed with BUYER, which form a part of the Purchase Order whether or not so stated on the Purchase Order, the Parties shall not be bound by any other statements or understandings not set forth in the Terms and Conditions, the Purchase Order, and all references, attachments, and supplements thereto, unless they are in writing and approved by a duly authorized representative of both Parties.

4. INDEPENDENT CONTRACTOR

- a. SELLER is an independent contractor and not an agent or employee of BUYER either expressly or impliedly. The employees used by SELLER to perform Work under this Order shall be SELLER's employees exclusively, without any relation whatsoever to BUYER.
- b. Except as otherwise set forth herein, nothing in these Terms and Conditions nor the Purchase Order to which these Terms and Conditions form a part, shall create or imply an agency relationship, joint venture, teaming agreement/arrangement, or partnership between the Parties hereto.
- c. Nothing in these Terms and Conditions, nor the Purchase Order to which these Terms and Conditions form a part, grants SELLER the right to make commitments of any kind for, or on behalf of, BUYER.

5. ORDER OF PRECEDENCE

- a. Contractual Order of Precedence:
 - i. If there is any conflict or inconsistencies in the Purchase Order, such shall be resolved in the following order:
 1. Dispositioned VIRs (Vendor Information Requests) if applicable;
 2. The Purchase Order, exclusive of appendices, exhibits, attachments, drawings, specifications and other plans or documents, and the Terms and Conditions invoked therein;
 3. These Terms and Conditions;
 4. Purchase Order appendices, exhibits, attachments, drawings, and specifications, or other plans or documents referenced in the Order.
- b. Technical Order of Precedence:
 - i. If there is any conflict or inconsistencies in any of the technical requirements of the Purchase Order, such shall be resolved in the following order:
 1. Dispositioned VIRs (Vendor Information Requests) if applicable;
 2. The Purchase Order, exclusive of appendices, exhibits, attachments, drawings, specifications, and other plans or documents;
 3. Order of precedence amongst and between technical requirements not provided by VIR disposition or appearing on the face of the Purchase Order shall be as specified within the technical requirements themselves.
- c. SELLER shall immediately bring any inconsistencies, whether in the Purchase Order requirements or technical requirements, to the attention of the BUYER in writing. If SELLER does not bring any such inconsistencies to BUYER's attention immediately, it waives any right to make any claim, avoid any obligation or exercise any right based on such inconsistency.

6. SURVIVAL UPON TERMINATION OR CANCELLATION AND SEVERABILITY

- a. Articles regarding release of information, proprietary information, indemnity, import and export control/compliance, data and software rights, warranty, choice of law, and any other clause that expressly identifies survival, shall survive the completion, termination or cancellation of the Order.
- b. If any clause, term, condition, or requirement of the Purchase Order contravenes any law having jurisdiction over the Purchase Order, that clause, term, condition, or requirement shall be inoperative in that jurisdiction, and the validity

of the remaining portions or provisions shall not be affected thereby.

- 7. CHANGES.** No changes or substitutions are to be made on this order without BUYER's express written consent. BUYER reserves the right at any time to make changes to the Purchase Order. If any such change causes an increase or decrease in the cost of or the time required for performance of this contract, an equitable adjustment, based on BUYER's discretion, shall be made in the contract price or delivery schedule, or both. SELLER shall have ten (10) days from receipt of notice from BUYER to reject such change or it shall be deemed accepted by SELLER. Price increase or extensions of time for delivery shall not be binding on BUYER unless agreed to in writing by BUYER.
- 8. INSPECTION.** Hardware purchased hereunder is subject to inspection and approval at BUYER's or SELLER 'destination. BUYER reserves the right to reject and refuse acceptance of any Hardware which does not conform to the instructions, specifications, drawings, data, and the requirements of this Order. Hardware not accepted will be returned to SELLER at SELLER's expense. Payment for any Hardware hereunder shall not be deemed an acceptance thereof. Risk of loss of any Hardware purchased under a Purchase Order shall remain with SELLER until such Hardware is accepted by BUYER.
- 9. SUSPENSION.** BUYER may at any time require SELLER to suspend performance under this Purchase Order completely or partially and for whatever length of time BUYER may elect. If suspension continues for thirty (30) days or longer, any undisputed costs directly incurred by SELLER for Hardware delivered or Services completed prior to such suspension will be payable within sixty (60) days of invoice for such costs. Such invoice shall be submitted with evidence supporting SELLER's claim for costs. Any costs paid will be agreed to between the parties. The time for completion by SELLER shall be extended by each period that the completion date is necessarily delayed by the suspension order. BUYER shall not be liable to SELLER for any losses, liabilities or damages whatsoever and howsoever arising out of or in connection with BUYER's suspension order. SELLER shall promptly resume work upon receipt of written notice from BUYER to continue performance on such suspended work to the extent required in such notice.
- 10. BUSINESS CONDUCT AND ETHICS**
- BUYER maintains a robust Business Ethics and Conduct policy ("BUYER's Policy") with which SELLER shall be familiar and shall enforce against its employees and contractors. BUYER's Policy is available at this website: <https://ir.grahamcorp.com/corporate-governance/governance-documents>
 - SELLER shall have management systems in place to support compliance with all applicable laws, regulations, and the expectations addressed in BUYER's Policy.
 - Neither SELLER nor any of its employees, agents, or representatives shall give or offer any gift or gratuity to BUYER, BUYER's employees, their families, customers or representatives.
 - SELLER shall support free and fair competition, and shall not unfairly limit trade or exclude competitors from the marketplace, or work to fix or control prices.
 - If any cost paid by BUYER is found to have been presented to/by SELLER in error, SELLER shall notify BUYER and promptly refund such overpayment.
- 11. TERMINATION.**
- BUYER may terminate any Purchase Order immediately upon written notice to the SELLER if (a) any Hardware manufactured by the SELLER are other than in strict conformance with BUYER's technical specifications; (b) the SELLER breaches any provision of this Agreement, other than Article 10 "Business Conduct and Ethics", and fails to cure such breach within five days following written notice thereof from BUYER; (c) BUYER has a reasonable basis to believe SELLER is noncompliant with Article 10 Business Conduct and Ethics; (d) SELLER becomes insolvent, files or has filed against it a petition for bankruptcy or ceases to conduct business in the ordinary course consistent with its past practice or (e) if, in the sole opinion of BUYER, SELLER fails to diligently perform or fulfill any material obligations under a Purchase Order and fails to correct any such failure within ten (10) calendar days' notice. In the event of termination for default under this Article, BUYER shall make no further payments to SELLER until it has obtained replacement Hardware from a third party. Once such replacement Hardware are obtained and all charges therefore are settled, BUYER shall pay to SELLER the remaining amount due for the portion of the Hardware delivered and/or paid for prior to the effective date of termination, if any, less any cost for obtaining replacement Hardware and any administrative, legal and other expenses incurred by BUYER in connection with SELLER's default.
 - BUYER may also terminate this Purchase Order at any time for its convenience. In the event of termination for convenience, BUYER will pay to SELLER undisputed costs for materials received, cancellation charges incurred for materials on order, costs for work completed and delivered up to date of termination upon receipt of a final invoice

from SELLER. Such invoice shall be submitted with evidence supporting its claim for costs. Any costs paid will be agreed to between the Parties. For all material that is paid for by BUYER, title will transfer to BUYER upon payment to SELLER and SELLER will make all Hardware available to BUYER for retrieval.

- c. After termination, if it is determined that the SELLER was not in default, or that the default was excusable, the rights and obligations of the Parties shall be the same as provided in the termination for convenience provision hereof.
- d. Upon the occurrence and during the continuation of a default, BUYER may exercise any and all rights and remedies available to it under applicable law and equity, including without limitation, cancellation of the Purchase Order, in whole or in part.

12. SHIPPING/DELIVERY. The Purchase Order Number is to be marked on all packages, invoices and other correspondence relating to the order. Packing and shipping to BUYER's location are included in the purchase price unless otherwise specified in the Purchase Order. All shipping charges must have supporting freight or express bill attached. On same day material is shipped, dispatch one copy of packing list to BUYER, which should indicate "order complete" or "part shipment," whichever is applicable, and if order is part shipped, advise when balance of order will be shipped. Delivery shall be per the Incoterms stated on the Purchase Order.

13. IMPORT/EXPORT COMPLIANCE. SELLER shall comply with all applicable U.S. export control laws and regulations, specifically including, but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C. §§ 2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. §§ 120 et seq.; and the Export Administration Act, 50 U.S.C. app 2401-2420, including the Export Administration Regulations, 15 C.F.R. §§ 730-740 ("US Export Laws"); and shall obtain all required export authorizations, licenses, permits or exemptions applicable to the export of any export-controlled item in SELLER's performance of this Purchase Order.

- a. In the case of a domestic SELLER, SELLER shall be the importer of record for all Hardware delivered to BUYER.
- b. Without limiting the foregoing, Seller agrees that it will not transfer any export controlled item, data, or services, to include transfer to foreign persons employed by or associated with, or under contract to Seller or Seller's lower-tier suppliers, without the authority of an export license, agreement, or applicable exemption or exception. Seller agrees to notify Buyer if any deliverable under this Contract is restricted by export control laws or regulations.
- c. Seller shall immediately notify Buyer if Seller is, or becomes, listed in any Denied Parties List or if Seller's export privileged are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.
- d. If Seller is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Seller represents that it is registered with the Directorate of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.
- e. Seller shall be responsible for all losses, costs, claims, causes of action, damages, liabilities and expense, including reasonable attorney's fees, all expense of litigation and/or settlement, and court costs, arising from any negligent act or omission of Seller, its officers, employees, agents, suppliers or subcontractors at any tier, in the performance of any of its obligations under this clause. Seller's liability shall be limited to the value of the authorized Purchase Order value.
- f. SELLER shall indemnify and hold BUYER harmless for all claims, demands, damages, costs, fines, penalties, attorney's fees, and all other expenses arising from SELLER not complying with this clause or any U.S. Export Laws.

14. TIME IS OF THE ESSENCE. Time is of the essence in this contract. If delivery of Hardware is not completed by the time promised, BUYER reserves the right, in addition to its other available rights and remedies, to apply liquidated damages as may be set forth in the Purchase Order and/or terminate this contract by notice to SELLER, as to stated Hardware not yet shipped and to purchase substitute Hardware elsewhere at SELLER's expense. Should BUYER elect to terminate this order, payment to SELLER would be made per the provisions set forth in Article 11, specifically Termination for Default.

SELLER must also immediately advise BUYER in writing of any delays or anticipated delays and provide all relevant information with respect to such delay including, but not limited to, an action plan to recover the time equal to the amount of the delay or anticipated delay.

15. FORCE MAJEURE. Neither party will be in default for any delay or failure to perform due to causes beyond its reasonable

control and without its fault or negligence (“Force Majeure Event”). The party affected by a Force Majeure Event will promptly provide written notice to the other, explaining in detail the full particulars and expected duration of the Force Majeure Event, and will use its best efforts to remedy the delay. If Force Majeure Event delays SELLER’s delivery, BUYER may, at BUYER’s sole option, cancel deliveries scheduled during the period of the Force Majeure Event or elect to extend the period of performance to cover the period caused by the Force Majeure Event. If a Force Majeure Event occurs and delays the delivery or reduces the volume of Goods to BUYER, SELLER will allocate its available supply of Goods in a manner that assures BUYER of at least the same proportion of SELLER’s total output of Goods as was allocated to BUYER before to the Force Majeure Event. If delivery of any Goods is delayed for more than 30 days, BUYER may cancel all or any part of this Purchase Order. In the event of cancellation, neither party will have any further liability to the other.

16. WARRANTY.

- a. By accepting this order SELLER hereby represents and warrants that; (i) the Hardware furnished hereunder will be in full conformity with BUYER's specification drawings and data, fit for the use specified by BUYER, not in violation or misappropriation of the intellectual property rights of any third party, and free from defects in, design, material or workmanship; and (ii) all Services provided under or in connection with an Order (a) have been, if applicable, and will be, performed in a professional and workmanlike manner and in accordance with current, sound, and highest generally accepted industry standards and practices by appropriately licensed, trained, and supervised personnel who are experienced in the appropriate fields; and (b) do, if applicable, and will conform to and be in compliance with all applicable Specifications, performance requirements and other requirements contained in the Order. Both Hardware and Service warranties will be in effect for a period of eighteen (18) months from the date of delivery. SELLER agrees that this warranty shall survive acceptance of the items and materials by BUYER, and that such warranty shall be in addition to any warranty of greater scope given by SELLER to BUYER, and SELLER shall pass through any warranty on any Hardware provided by their manufacturer.
- b. The Parties agree that at BUYER’s sole discretion, BUYER’s remedies and direct damages for breach of Warranty may include, but not be limited to (i) repair, replacement or refund; (ii) cost of cover or substitution; (iii) cost of removal, re installation and re testing; and (iv) re-performance of defective Services.
- c. BUYER does not accept materials that originated from the following sources: Kobe Steel LTD; Ulma Forged Solutions; or Tusco Tube Company LTD. SELLER hereby represents and warrants that the Hardware furnished hereunder will not include or contain any materials, parts, components or services that originated from any of these entities. SELLER shall indemnify and hold BUYER harmless for all claims, demands, damages, costs, fines, penalties, attorney’s fees, and all other expenses arising from SELLER not complying with this clause.

17. INDEMNITY AND LIMITATION OF LIABILITY. BUYER and SELLER shall indemnify, defend, and hold each other harmless from all costs, losses, expenses (including reasonable attorneys’ fees), claims, demands, and causes of action asserted against the indemnitee related to personal injury, death, or loss of or damage to property resulting from the indemnitor’s negligence, gross negligence or willful misconduct. Where personal injury, death, or loss of or damage to property is the result of joint negligence, gross negligence or willful misconduct of BUYER and SELLER, the indemnitor’s duty of indemnification shall be in proportion to its allocable share of such joint negligence, gross negligence or willful misconduct. If either party is strictly liable under the law, the other party's duty of indemnification shall be in the same proportion that its negligence, gross negligence or willful misconduct contributed to the personal injury, death, or loss of or damage to property for which a party is strictly liable.

BUYER shall be named as an additional insured on all insurance policies SELLER is required to maintain during the performance of this Order. SELLER shall provide Certificates of Insurance to BUYER reflecting the same. Other than the obligation to indemnify the other Party under any indemnity obligation set forth herein, neither party shall have any liability to the other for indirect, special, incidental or consequential damages under any theory of law or equity.

BUYER’s aggregate liability to SELLER for any claims, demands, actions, suits, damages or losses relating to BUYER’s performance of BUYER’s obligations, herein, whether sounding in tort, contract, indemnity or other causes of action or relief, shall not exceed the unpaid portion of the purchase price of the related Order.

18. INTELLECTUAL PROPERTY RIGHTS. Unless the Statement of Work or schedule of Deliverables indicates otherwise, SELLER shall retain all rights, title and interest to patent rights, inventions, copyrights, trademarks, trade secrets, know how,

technology rights and other intellectual property (collectively, "Seller's IP Rights"), whether created, discovered, or developed by Seller or on its behalf by a party other than Buyer, prior to or during the performance of this Order, except that inventions created, discovered or developed mutually by the SELLER and BUYER during the performance of this Order shall be jointly owned by SELLER and BUYER ("Joint Inventions"). SELLER hereby grants BUYER a perpetual, royalty-free, world-wide, paid up license to SELLER's IP Rights to the extent necessary to use, sale, offer for sale, re-sell, and repair the Hardware delivered pursuant to this Agreement, including incorporating the Hardware into other products, and to photocopy the written deliverables and transfer such rights to third parties as part of BUYER's performance of its other contracts and agreements (the "Use License"). SELLER agrees that any custom designs developed for use by BUYER under a Purchase Order shall be used solely for fulfilling SELLER'S obligations to BUYER and shall not be offered, sold, transferred, or otherwise disclosed to third parties without BUYER's written consent.

19. PATENT INFRINGEMENT. The SELLER agrees to indemnify, save harmless and to defend at SELLER's own expense, the BUYER and its customer from all costs, expenses (including reasonable attorney's fees), judgments, decrees, or damages arising out of any infringement or claim of infringement of patents in the use or sale of Hardware or other deliverables provided under this Purchase Order.

20. INVOICING/PAYMENT. All invoices shall have attached a packing list and Bill of Lading or other required documentation to support the particular payment. Payment terms will be defined in the Purchase Order. If no specification is made, then payment terms shall be Net fifty-four (54) days on undisputed amounts.

- a. Should BUYER require, SELLER shall provide a Standby Letter of Credit for Performance and/or Advance Payment.
 - i. *Performance Standby Letter of Credit:* SELLER shall obtain and deliver to BUYER, within thirty (30) days from the receipt of fully Executed Purchase Order, a Standby Letter of Credit in an acceptable format, for a value of ten percent (10%) of the Purchase Order price, as security for the proper performance of SELLER's obligations under the Purchase Order (hereinafter called "Performance Standby Letter of Credit"). The Performance Standby Letter of Credit shall remain valid until the end of the warranty period + 30 days.
 - ii. *Advance Payment Standby Letter of Credit:* SELLER shall provide a Standby Letter of Credit for each advance payment (hereinafter called "Advance Payment Standby Letter of Credit") made for equal value which shall remain valid up to contractual delivery + 30 days.

The Standby Letters of Credit shall be issued by a First Class Bank which is rated not less than A- by S&P or A3 by Moody's, duly approved by BUYER and payable at the counters of the Issuing Bank in the USA. All costs of complying with the Performance and Advance Payment Standby Letter of Credit requirements shall be borne by SELLER.

In the event of delay in delivery or an increase in Purchase Order price, the Performance Standby Letter of Credit shall be amended accordingly. No payments will be made until the required Standby Letters of Credit are received.

As collateral security for the performance of its obligations under this Agreement, SELLER grants to BUYER a lien on and security interest in all material, equipment, Hardware and other personal property which SELLER shall manufacture or obtain for BUYER pursuant to this Purchase Order and all proceeds and profits therefrom (collectively, the "Collateral"). SELLER and BUYER agreed to execute a mutually agreeable Transfer of Collateral Contract should BUYER so request.

21. SET OFF AND LIENS. BUYER may deduct any amount owing from SELLER to BUYER under any other Purchase Order or other agreement against any amount owing to SELLER under this Purchase Order. SELLER hereby waives its right to file a lien against any property or assets of BUYER or otherwise encumber such in a summary or other proceeding unless BUYER fails to pay any undisputed invoice as required. SELLER will indemnify and hold BUYER harmless for all costs, losses, expenses (including reasonable attorney's fees), actions and proceedings arising from any liens or claims filed by SELLER's sub-tier contractors or agents against BUYER or its assets relating to amounts owed by SELLER to its sub-tier contractor or agents. Should BUYER request, SELLER will provide lien waivers with every invoice.

22. SPECIAL TOOLS. Any patterns, special dies, molds, fixtures and any other property furnished by SELLER are to become the property of BUYER. Unless otherwise agreed in writing, all special dies, molds, patterns, fixtures, and any other property

furnished by BUYER to SELLER or specifically paid for by BUYER, for use in the performance of this order, shall be and remain the property of BUYER, shall be subject to removal upon BUYER's instruction, shall be used only in filling orders from BUYER, shall be held at SELLER's risk, and shall be kept insured by SELLER at SELLER's expense while in its custody or control in an amount equal to the replacement cost thereof, with loss payable to BUYER. Copies of policies or certificates of such insurance shall be furnished to BUYER on demand.

23. CONFIDENTIALITY. "Confidential Information" under this Agreement means information that is (i) made available to SELLER, directly or indirectly, by BUYER or Affiliates, or (ii) developed or acquired by SELLER in performance of this Agreement. SELLER will hold in confidence all Confidential Information. SELLER may not use Confidential Information for any purpose other than performance of its obligations under this Agreement and the Purchase Order. BUYER accepts no obligation of confidence with respect to items acquired or information disclosed, no matter how labeled, to BUYER by SELLER unless provided for in a separate, written confidentiality agreement. In the absence of any confidentiality agreement, SELLER may not place any restrictive notices on any information, no matter the form of its recording, that SELLER provides to BUYER hereunder and BUYER is authorized to remove or disregard any such notices placed on information by SELLER in violation of this provision. SELLER may not take any photographs, videos, or other recordings of BUYER's or Affiliates' property without BUYER's prior written consent. SELLER may not reverse engineer, decompile or reconstruct any Confidential Information disclosed by BUYER.

Except as required by law, SELLER shall not release to anyone outside SELLER's organization any Confidential Information, or confirmation or denial of same, with respect to this agreement or the subject matter hereof without the prior written approval of BUYER. Requests for approval shall be made at least fifteen (15) days before the proposed date for release and shall identify the specific information to be released, the medium to be used and the purpose for the release. Additionally, SELLER shall not use BUYER's name, trade name, trademark, products, parts thereof or replicas of products, or in any other way identify BUYER or any BUYER customer in any advertisement, display, news release, internet posting or any other disclosure without BUYER's prior written consent. SELLER agrees to insert the substance of this clause, including this sentence, in any lower tier subcontract. SELLER shall submit requests for authorization to BUYER.

24. ASSIGNMENT AND SUBCONTRACTING. SELLER will not assign this Purchase Order or any rights or obligations hereunder or subcontract all or any material aspect of the work called for without prior written approval of the BUYER, including any with respect to any direct or indirect change of control. Any assignment without BUYER's written approval will be violable at the option of the BUYER.

25. AUDIT. SELLER will preserve documentation related to the Purchase Order for six years after completion of the Purchase Order. BUYER may audit SELLER's compliance with the Purchase Order and SELLER will provide BUYER access to SELLER's documentation, personnel and facilities in support of any such audit and will permit BUYER to reproduce applicable portions of the documentation. SELLER will cause any subcontractors to preserve documentation and allow BUYER to audit to the same extent. BUYER will bear its own costs to perform an audit, but will not be liable for SELLER's or subcontractor's costs resulting from an audit.

26. APPLICABLE LAWS. SELLER agrees that Section 402 of the Veterans Readjustment Assistance Act of 1974 and Section 503 of the Rehabilitation Act of 1973 is incorporated by reference. "The Equal Employment Opportunity Article in Section 202 of Executive Order 11246, as amended, relative to equal employment opportunity and the implementing rules and regulations of the Office of Federal Contract Compliances are incorporated herein by specific reference."

27. GOVERNING LAW. This Purchase Order is governed by the laws of the State of New York. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this contract. The parties agree to submit to the exclusive jurisdiction of the state and federal courts having jurisdiction over Genesee County of the State of New York. The parties agree to waive their rights to a trial by jury.

28. WAIVER OF PROVISIONS. No provisions herein may be amended, modified or waived except in writing by a person duly authorized by BUYER. No acceptance by the BUYER shall be deemed contained herein except upon SELLER's express consent to all terms and conditions set forth herein additional to or different from those of SELLER. No waiver by BUYER of any provision set forth herein shall constitute a waiver of any other provision.

29. Conflict Minerals Certification

- a. Pursuant to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and its implementing regulations, BUYER is required to identify the presence and source of Conflict Minerals (gold, tantalum, tin and tungsten) contained in BUYER's manufactured products. To the extent the Purchase Order is for delivery of

Hardware, SELLER shall make all reasonable efforts to assist BUYER in identifying the presence and source of Conflict Minerals contained in the products sold by SELLER to BUYER.

- b. If this Order is for delivery of Hardware, SELLER agrees to provide the BUYER or BUYER's designee one of the following upon BUYER's request:
 - i. The Global E-Sustainability Initiative Conflict Minerals Reporting Template ("GeSI CMRT") available at <http://www.conflictreesourcing.org/conflict-minerals-reporting-template/>; with "Product" selected under the "Declaration Scope or Class" field; or
 - ii. Written documentation about the source of Conflict Minerals in the product(s) that provides substantively similar information to that requested by the GeSI CMRT.

30. Toxic Substances/Hazardous Material

- a. BUYER will not accept, store or dispose of any toxic substances or hazardous material except if and to the extent expressly agreed in writing by BUYER or unless the Purchase Order specifies the delivery of such items or items containing such substances. In particular, such substances/materials include:
 - i. Paints or primers on products required by the Purchase Order that contain the following components shall not be shipped without prior written approval of the BUYER: arsenic, mercury, methylene chloride, methyl ethyl ketone (MEK), lead, and chromium, their compounds, or organo-metallic material; and
 - ii. Materials known to be, or suspected of containing or coming in contact with, asbestos, polychlorinated biphenyls (PCBs), mercury or mercury containing compounds; and
 - iii. Materials which contain any of the toxic or hazardous substances specified by the Occupational Safety and Health Administration ("OSHA") regulation 29 CFR1910.1001 – 1910.1052.
- b. For all material or items containing toxic or hazardous substances, SELLER shall provide all relevant information pursuant to OSHA regulation 29 CFR 1910.1200, including a completed Material Safety Data Sheet (MSDS) and the mandated labeling information, upon or before the initial shipment, or with respect to updates, the first shipment after the update. SELLER will send SDS and updates to each of BUYER's receiving locations.