



KULITE SEMICONDUCTOR PRODUCTS, INC.
TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale ("Conditions") are binding upon Kulite Semiconductor Products, Inc. ("Seller") and the customer ("Buyer"), who purchases Goods from the Seller (as defined below).

I. ACCEPTANCE OF ORDERS:

Seller's acceptance of Buyer's purchase order ("Order") and all offers and sales by Seller of goods, services or both as described on the face of the Order (collectively, "Goods") are subject to and expressly conditioned upon Buyer's assent to these Conditions. The Contract consists of these Conditions, Seller's quotation or proposal, Kulite Government Supplement, if applicable, and Seller's order acknowledgment. Any of Buyer's terms and conditions which are different from or in addition to those contained in this Contract are objected to by Seller and shall be of no effect unless Seller explicitly agrees to any such additional terms in writing or there is a separate supply agreement signed by both parties which expressly takes precedence over these Conditions. Commencement of performance or shipment shall not be construed as acceptance of any of Buyer's terms and conditions which are different from or in addition to those contained in this Contract. **ABSENT A SEPARATE SUPPLY AGREEMENT SIGNED BY BOTH PARTIES, THE PLACEMENT OF ANY ORDER BY BUYER OR ACCEPTANCE BY BUYER OF GOODS FURNISHED BY SELLER PURSUANT HERETO SHALL CONSTITUTE ACCEPTANCE OF THESE CONDITIONS.**

II. PRICE AND PAYMENT TERMS:

A. The price of the Goods shall be the price set out in the Contract.

B. Prices include standard domestic packaging only. The price of Goods excludes the costs and charges of special packaging (including, but not limited to, packaging for export), insurance and transport of Goods, which shall be the responsibility of the Buyer.

C. Seller may invoice Buyer for the Goods on or at any time after the completion of delivery. Unless otherwise agreed by the parties, the payment for all Goods delivered to Buyer shall be NET Thirty (30) days from the date of Seller's invoice, and shall be in accordance with instructions set forth in the invoice. Buyer shall pay the full purchase price for the Goods without any set-offs or deductions.

D. If Buyer requests an extension to the payment period and Seller agrees to such extension in writing, such extension shall be subject to a 2.5% increase in the purchase price for every two weeks requested. In any event, if Seller shall have any doubt at any time as to Buyer's ability to pay, Seller may decline to make deliveries except on receipt of cash or satisfactory security. Upon Seller's request, Buyer shall make a down payment to Seller prior to acceptance of Buyer's Order for orders requiring special design considerations, special construction or other custom orders.

E. With regard to certain shipments exported out of the United States ("U.S."), Seller may request that payment be made in U.S. dollars by a Letter of Credit accompanying Buyer's Order. All Letters of Credit shall: (i) be in favor of and acceptable to Seller; (ii) be maintained in sufficient amounts and for the period necessary to meet all payment obligations; (iii) be irrevocable; (iv) be issued or confirmed by a financial institution acceptable to Seller within fifteen (15) days after acceptance of any order, (v) permit partial deliveries; and (vi) provide for pro-rata payments upon preservation of Seller's invoices and Seller's certificate of delivery, Ex Works, or of delivery of certification of cause therefore; and (vii) provide for the payment of any cancellation charges or interim amounts due under the provisions of an order.

F. If Buyer fails to fulfill any conditions of the payment terms as set forth in this Article, Seller may suspend performance and any costs incurred by Seller as a result thereof shall be payable by Buyer. Seller shall be entitled to an extension of time for performance of its obligations equaling the period of Buyer's nonfulfillment whether or not Seller elects to suspend performance. If such nonfulfillment is not rectified by Buyer promptly upon notice thereof, Seller may cancel performance, and Buyer shall pay upon submission of Seller's invoices reasonable cancellation charges for the value of the work completed prior to cancellation.

G. If the financial condition of the Buyer at any time does not, in the judgment of the Seller, justify continuation of the work to be performed by the Seller hereunder on the terms of payment agreed upon, the Seller may require full or partial payment in advance, or shall be entitled to cancel any order then outstanding, or shall receive reimbursement for its reasonable cancellation charges. In the event of bankruptcy or insolvency of the Buyer or in the event any proceeding is brought against the Buyer, voluntarily or involuntarily, under the bankruptcy or insolvency laws, the Seller shall be entitled to, at its option and in its sole discretion, do any or all of the following: (i) declare all outstanding invoices immediately due and payable; or (ii) suspend or cancel further shipment, or (iii) other performance, or (iv) require prepayment for future shipments; or (v) revoke any credit extended to Buyer or otherwise modify terms or payment; or (vi) set off any sums received from Buyer against Buyer's unpaid obligations. In addition, in any action based on Buyer's breach, Seller shall have the right to recover costs reasonably incurred by Seller in connection with the breach, including but not limited to storage, and handling charges, costs of collection, and reasonable attorney's fees. The rights of the Seller under this Article are

cumulative and in addition to all rights available to the Seller at law and equity.

III. CREDIT:

The amount of credit offered by Seller to Buyer, if any, is contingent upon Seller's opinion of Buyer's capacity, ability and willingness to promptly pay for Goods received under the terms of this Contract. Seller, however, is under no obligation to offer credit to Buyer. All credit terms must be in writing executed by Buyer and Seller. Provided that, in Seller's opinion, there is a material adverse change in Buyer's financial condition and/or Buyer has not, within the agreed time, fully paid for goods and services previously supplied under this and/or another Contract(s) with Seller, Seller reserves the right to revoke Buyer's credit and/or suspend performance on this and/or other orders for goods and services.

IV. TAXES, DUTIES AND FEES:

A. The price stated is exclusive of any taxes. Buyer shall be directly responsible for all federal, state, local and municipal taxes, excise taxes or tariffs now in effect, or hereafter enacted, that are applicable to the transactions between Seller and Buyer. If Seller is required to pay any such tax, fee or charge, Buyer shall reimburse Seller therefor.

B. Any customs duties and import levies, or any similar duties or levies shall be payable by Buyer.

C. A processing fee may be added for any order under a certain value that requires an export license.

V. DELIVERY, SHIPPING, TITLE AND RISK OF LOSS:

A. Delivery dates are estimates only and time for delivery shall not be made of the essence by notice. Seller shall not be liable to Buyer for any losses or damages caused by non-delivery, delay in delivery or rejection by Buyer of any Goods.

B. For Goods transported domestically within the U.S., the F.O.B. point is Leonia, New Jersey or as otherwise confirmed in writing to Buyer. For Goods transported internationally to locations outside of the U.S., Supplier will deliver the Goods F.C.A. Leonia, New Jersey (Incoterms 2010).

C. Reserved.

D. Delivery shall be completed upon placement of the Goods with the shipping carrier. Shipping contracts made by Seller shall be to Buyer's account. All claims for loss or damage after risk of loss has passed to Buyer shall be filed by Buyer with the carrier. Buyer shall be liable to Seller for the full price of the Goods, irrespective of loss or damage in transit which occurs after delivery is completed. Seller shall not be required to provide freight cost receipts to Buyer at the time of invoice. Buyer shall be responsible for all expense for delivery of goods, including without limitation, shipping, loading, unloading, storage, freight, and insurance.

E. The risk in the Goods shall pass to Buyer when delivery is completed. Title to the Goods shall not pass to Buyer until Seller has received payment in full for the

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Goods. Among other things, a signed delivery receipt or bill of lading will constitute proof of delivery.

G. Seller shall include with each shipment a packing slip which includes all relevant Buyer and Seller reference numbers, the type and quantity of Goods, a Certificate of Conformance and final test data, all in Seller's format. Any additional Buyer requirements may be result in additional fees.

VI. FORCE MAJEURE:

A. Seller shall not be held responsible for any delay or failure of performance under this Contract due to any causes beyond its control and without its fault or negligence, including but not limited to accidents, fires, floods, explosions, strikes, lockouts, terrorism, work stoppage, declared or undeclared wars, riots, any acts of God, shortages of materials or delays in transportation, inability to obtain export or import licenses, or acts of government.

B. Seller shall notify Buyer of any delay or failure of performance excused by this Article and shall take all reasonable steps to mitigate the effect of any such delay or failure of performance. In the event of such delay, subject to Article VI(C), the time of delivery or performance shall be extended for a period equal to the time lost by Seller by reason of delay.

C. If delay excused by this Article extends for more than 90 days and the parties have not agreed upon a revised basis for continuing the work at the end of the delay, including adjustment of the price, then either party upon 30 days' notice may terminate the Order with respect to the unexecuted portion of the work, whereupon Buyer shall promptly pay Seller reasonable termination charges incurred up to the date of termination upon submission of Seller's invoices thereof.

VII. TECHNICAL ADVICE:

Seller may furnish technical assistance, advice and information with respect to the Goods supplied by Seller, and only to the extent that such advice, assistance and information are conveniently available. Seller makes no warranty as to the accuracy or completeness of the information and Buyer acknowledges that Seller has no obligation to provide such information. If such information is provided, it shall be without charge to Buyer and Buyer shall use it at its own risk.

VIII. INTELLECTUAL PROPERTY INDEMNIFICATION:

A. If Buyer receives a claim that any Goods, or part thereof, manufactured by the Seller allegedly infringes a U.S. patent, Buyer shall notify Seller promptly in writing and give Seller information, assistance, and exclusive authority to evaluate, defend and settle such claim. Seller shall then at its own expense and option (1) settle such claim, or (2) procure for Buyer the right to use such Goods, or (3) replace or modify the Goods to avoid infringement, or (4) remove the Goods and refund the purchase price (including transportation costs) less a reasonable amount of depreciation, or (5) defend against such claim.

Provided such timely notice has been given by Buyer, should any court of competent jurisdiction hold such Goods to constitute infringement, Seller shall pay any costs and damages finally awarded on account of such infringement, and if the use of such Goods is enjoined, Seller shall take at its option one or more of the actions under (2), (3), or (4) above. With respect to any Goods not manufactured by Seller, the patent indemnity given by the manufacturer of such Goods shall apply.

B. The obligations of Seller set forth in Article VIII(A) do not apply to (1) Goods manufactured by the Seller based on Buyer's detailed specifications or designs directing the manner of performance or (2) Goods infringing as a result of the Buyer's alteration, or misuse thereof. Buyer shall defend, indemnify and hold Seller harmless against any third-party claims for infringement which arise out of Seller's use of specifications or designs furnished by Buyer.

C. THIS ARTICLE STATES SELLER'S TOTAL LIABILITY AND BUYER'S SOLE REMEDY FOR ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT BY THE GOODS MANUFACTURED AND PROVIDED BY SELLER HEREUNDER.

IX. INSPECTION AND REJECTION:

A. Buyer and its customers may inspect all Goods at reasonable times and places, prior to shipment. No access will be granted to Seller's facilities where Seller's proprietary processes are performed.

B. No such inspection shall relieve Seller of its obligations to furnish and warrant all Goods in accordance with the requirements of this Contract. Buyer's final inspection and acceptance shall be at destination.

C. If Seller delivers non-conforming Goods, Buyer may at its option and as its sole remedy (i) accept all or part of the Goods at an equitable price reduction; (ii) reject such Goods or (iii) require Seller to promptly correct and replace the Goods.

D. If Seller fails to deliver replacement Goods promptly, Buyer, at its own cost and expense, may correct any retained non-conforming Goods, replace them with goods from another supplier or terminate this Contract for default.

X. WARRANTY:

A. Unless specifically provided to Buyer in writing, Seller warrants that (i) the Goods shall be shipped free from defects in material, workmanship and title and (ii) the services shall be performed in a competent, diligent manner and shall conform in all material respects with any mutually agreed specifications.

B. Unless otherwise agreed, the warranty period for Goods shall be twelve (12) months from the date of shipment.

C. Seller shall not be responsible for any Goods where there has been (i) improper installation or testing, (ii) failure to provide a suitable operating environment; (iii) use of the Goods for purposes other than that for which they were designed; (iv) failure to monitor or operate the KULITE SEMICONDUCTOR PRODUCTS, INC.

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Goods in accordance with Buyer's specifications and good industry practice; (v) unauthorized attachment or removal or alteration of any part of the Goods; (vi) unusual mechanical, physical or electrical stresses; (vii) modifications or repairs done by other than the Seller; (viii) mishandling during shipment of the Goods; or (ix) any other abuse, misuse, neglect or accident not attributable to Seller.

D. If Goods do not meet the above warranties, Buyer shall promptly notify Seller in writing within the warranty period in accordance with the Seller's Warranty and Returns Policy (available at <http://www.kulite.com/company.asp?p=1-12>). Seller shall then, upon Buyer's option, repair or replace the defective Goods or refund or credit monies paid by Buyer.

E. Buyer shall bear the costs of access for Seller's remedial warranty efforts (including removal/replacement of systems, structures or other parts), de-installation, decontamination, re-installation and transportation of Goods to Seller.

F. The liability of Seller for losses or damages arising from Seller's breach hereunder is limited to full refund of the purchase price or, at Buyer's option, repair or replacement of Goods. Seller will not be liable for any consequential or incidental damages arising out of Seller's breach hereunder.

G. THIS ARTICLE PROVIDES THE EXCLUSIVE REMEDIES FOR ALL CLAIMS BASED ON FAILURE OF OR DEFECT IN GOODS, WHENEVER THE FAILURE OR DEFECT ARISES. THE WARRANTIES PROVIDED IN THIS ARTICLE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND GUARANTEES WHETHER WRITTEN, ORAL, IMPLIED OR STATUTORY. NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES.

XI. RETURNS PROCEDURE:

All in and out-of-warranty returns require a Return Materials Authorization ("RMA") number and shipping instructions provided by Seller's customer service representative. Goods received without this pre-assigned number will not be processed. All returns shall be in accordance with Kulite Warranty and Returns Policy (available at <https://www.kulite.com/assets/media/2019/02/Warranty-and>Returns-Policy-60th-Rev-K-Feb-2019.pdf>) Kulite reserves the right to update this Policy at any time.

XII. QUALITY:

Seller shall maintain a Quality Management System, which is accredited and certified to comply with ISO 9001 and AS9100 requirements. Seller's performance under this Contract shall be in accordance with Seller's General Quality Provisions (available at <https://www.kulite.com/assets/media/2017/05/GeneralQualityProvisions-Rev2015.pdf>). Kulite reserves the right to update these General Quality Provisions at any time.

XIII. CHANGES:

- A. Seller will not implement any changes made by Buyer unless mutually agreed upon.
- B. Buyer may by written notice request changes within general scope of an Order in any one or more in the following: (i) drawings, design, or specifications; (ii) method of shipment or packaging; (iii) place of inspection, delivery, or acceptance; (iv) amount of Buyer-furnished Manufacturing Materials; and (v) quantity.
- C. Changes to drawings, designs, or specifications of the goods and quality requirements shall be imposed upon mutual agreement based on work in process, finished goods inventory, and raw material inventory.
- D. Seller will notify Buyer and receive Buyer's approval before any Class 1 changes are implemented. Class 1 changes are those that affect fit, form, function, interchangeability, safety, strength, performance, flight characteristics, weight, balance, product qualifications, service life or installation of the next assembly. Class 2 changes are those that do not affect fit, form, function, interchangeability, safety, strength, performance, flight characteristics, weight, balance, product qualifications, service life or installation of the next assembly. Class 2 changes may be implemented without notification to, or, approval by, Buyer.

XIV. LIMITATION OF LIABILITY:

For purposes of this Article, the term "Seller" shall mean Seller, its affiliates, subcontractors and suppliers of any tier and their agents and employees, individually or collectively.

A. SELLER SHALL NOT BE LIABLE FOR LOSS OF USE, REVENUE OR PROFIT, EXPENDITURES FOR PROCURING SUBSTITUTE GOODS, LIQUIDATED DAMAGES UNDER ANY CONTRACTS WITH BUYER'S CUSTOMERS, OR FOR ANY SPECIAL, INCIDENTAL, INDIRECT, SPECULATIVE, REMOTE, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR OTHER DAMAGES ARISING OUT OF THIS CONTRACT OR ITS BREACH.

B. SELLER'S LIABILITY FOR ANY LOSS OR DAMAGE ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THIS CONTRACT SHALL NOT EXCEED THE PRICE ALLOCABLE TO THE GOODS WHICH GIVE RISE TO SUCH CLAIM.

THESE EXCLUSIONS OF TYPES OF DAMAGES AND LIMITATION ON THE AMOUNT OF DAMAGES SHALL APPLY REGARDLESS OF THE THEORY OF LIABILITY, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY. THESE EXCLUSIONS OF DAMAGES SHALL BE DEEMED INDEPENDENT OF, AND SHALL SURVIVE ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY UNDER THE TERMS OF THIS CONTRACT.

XV. BUYER'S INDEMNITY:

Buyer indemnifies and saves Seller harmless from all claims, losses, damages, expenses (including legal fees) KULITE SEMICONDUCTOR PRODUCTS, INC.
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and liability resulting from or in any way connected, directly or indirectly, with a breach of Buyer's representations or warranties hereunder or resulting from the possession, handling, sale or use of the Goods delivered hereunder or articles made from the Goods.

XVI. INTELLECTUAL PROPERTY RIGHTS:

A. All specifications, drawings, blueprints, samples, models and other intellectual property, information and/or papers furnished by Seller to Buyer are proprietary and shall remain the proprietary information of Seller ("Seller's Proprietary Information") and shall be immediately returned to Seller upon request. Any and all of Seller's Proprietary Information shall be held by Buyer as strictly secret, confidential and as trade secrets of Seller and shall not, without Seller's prior written consent, be duplicated or disclosed to any other person or entity.

B. Seller owns and maintains intellectual property rights incorporated in or relating to the Goods, including without limitation, patents, copyrights and trademarks whether or not such rights or protections are registered or perfected. Seller shall retain all rights, title and interest in Seller's intellectual property rights in the Goods sold under this Contract. No license or transfer of such intellectual property rights by Seller to Buyer is inherent or implied by this Contract and Buyer shall have no right, title or interest thereto except as expressly set out in this Contract or by law.

C. Buyer agrees that when Seller undertakes research, development and/or design of any nature using information including, without limitation, Buyer's Proprietary Information as provided by Buyer, Seller shall exclusively own all rights, title and interest in any resulting work product including, without limitation, all technical information, know-how, trade secrets and intellectual property ("Seller's Work Product"). Buyer shall take all necessary steps to ensure that Seller obtains full legal title in and to such rights in Seller's Work Product. Buyer will ensure that Buyer's employees, agents and subcontractors appropriately waive any and all claims to, and assign to Seller, all rights or interests in, any of Seller's Work Product created in connection with this Contract.

XVII. CONFIDENTIALITY:

A. "Seller's Confidential Information" is all of Seller's information disclosed to Buyer, whether written or oral, in any form, including any of Seller's Proprietary Information, Seller's Work Product, quotations, information relating to the research, development, products, methods of manufacture, trade secrets, business plans, customers, vendors, finances, personnel data, and other material or information relating to Seller's current or anticipated business.

B. Buyer agrees to maintain Seller's Confidential Information in confidence during and following termination or expiration of this Contract. Buyer will not copy, alter or otherwise use Seller's Confidential Information for its own benefit or disclose any of Seller's Confidential Information

to others. At Seller's request, Buyer shall return all of Seller's Confidential Information. Buyer agrees to limit distribution of Seller's Confidential Information only to Buyer's employees, agents or subcontractors who have a need to know, and to take steps to ensure that such distribution is so limited, including the execution by Buyer's employees, agents or subcontractors of confidentiality/nondisclosure agreements containing provisions substantially similar to those set forth herein.

C. Buyer acknowledges its responsibility for the obligation of confidentiality herein and is aware that any breach of its obligations of confidentiality will cause the application of any and all remedies provided for under applicable law or equity.

XVIII. COMPLIANCE WITH LAW:

A. Buyer shall comply with all federal, state and local laws, rules and regulations applicable to the application, operation, use and disposal of the Goods. At Seller's request or as required by law, Buyer shall issue certificates certifying compliance with any laws or regulations as may be applicable to the Goods purchased hereunder in each case in form and substance satisfactory to Seller.

B. Seller shall comply with all federal, state and local laws, rules and regulations applicable to the manufacture of Goods and Seller's performance of services hereunder.

XIX. EXPORT CONTROL LAWS:

A. The Goods sold hereunder may be subject to the export control laws and regulations of the United States of America and/or certain laws and regulations governing the export of United States technology.

B. The Buyer warrants that it will not, without the prior approval of the United States (U.S.) government, re-export, resell, retransfer or knowingly assist the re-export, resale or retransfer of the Goods to (a) a terrorist supporting countries identified as "Country Group E" in the U.S. government's Export Administration Regulations (EAR) at 15 CFR Part 740, Supplement One; (b) any military end use or end user identified as a proscribed destination in the U.S. government's International Traffic in Arms Regulations (ITAR) at 22 CFR Part 126.1; (c) an end user who the Buyer knows or has reason to believe will use the Goods directly or indirectly in nuclear activities, missile activities or chemical and biological activities prohibited by the General Prohibitions of EAR sections 744.2, 744.3 and 744.4; (d) any individual or organization which has been denied the right to participate in or benefit from U.S. export transactions by any agency, bureau, office or department of the U.S. government. To this end, the Buyer will be required to provide an end use certificate.

C. By placing any order with Seller, Buyer warrants that all ordered Goods are intended to be used within the guidelines listed above. Buyer further agrees to comply with all applicable laws, rules and regulations governing foreign purchases and importation. Buyer shall indemnify and hold Seller harmless for all claims, demands, damages, costs, fines, penalties, attorney's fees and all

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other expenses arising from Buyer's failure to comply with the provisions herein.

D. Seller shall comply with all the applicable export control laws and regulations and in particular, but not exclusively, those of the U.S. Government. If an export license is required, Seller may terminate any obligations under this Contract without any liability, in the event that such license is denied.

The technical data in the scope of work/specifications of the Good may be controlled by the International Traffic in Arms Regulations (ITAR) (22 C.F.R. 120 through 130). To this extent, Seller may require a written confirmation that the Buyer is a U.S. Person (as defined in ITAR 120.15), and inquire whether the recipient is currently registered with the U.S. Department of State Office of Defense Trade Controls. Seller represents that it maintains registration with the Directorate of Defense Trade Controls as may be required by 22 C.F.R. §§ 122.1 and/or 129.3 of the ITAR.

XX. TERMINATION:

A. Buyer may terminate the Contract (or any portion thereof) if Seller: (i) substantially breaches a material obligation which does not otherwise have a specified contractual remedy, provided that: (a) Buyer shall first provide Seller with detailed written notice of the breach and of Buyer's intention to terminate the Contract and (b) Seller shall have failed, within 30 days after receipt of the notice (or such extended period as is considered reasonable by the parties), to either (1) commence and diligently pursue cure of the breach or (2) provide reasonable evidence that the breach has not occurred; or (ii) becomes insolvent, makes an assignment for the benefit of its creditors, has a receiver or trustee appointed for the benefits of its creditors or files for protection from creditors under any bankruptcy or insolvency laws. If Buyer terminates the Contract, Buyer shall pay to Seller all portions of the Agreement price allocable to work completed, and work still in progress, and any expended non-recurring costs.

B. Seller shall have the right to terminate the Contract (or any portion thereof) immediately if: (i) Buyer becomes insolvent as described in Article II(G); (ii) any representation or warranty made by Buyer or any document or certificate furnished by Buyer in connection herewith proves to be incorrect in any material respect; (iii) an export license is denied or (iv) Buyer fails to comply with any material terms of the Contract, including but not limited to, failure to make any payment when due or to fulfill any payment conditions, and (if such breach is remediable) fails to remedy that breach within 30 days of being notified in writing of the breach. If Seller terminates the Contract, Buyer shall pay to Seller all portions of the Contract price allocable to work completed, and work still in progress, and any expended non-recurring costs. Buyer shall pay Seller within thirty (30) days after receipt of the invoice from Seller.

XXI. DISPUTE RESOLUTION, JURISDICTION AND CHOICE OF LAW:

A. Any dispute arising out of or in connection with the Contract, including any question regarding its existence, validity or termination, shall be resolved in accordance with this Article and will be settled, if possible, by negotiation of the parties. If a dispute is not resolved by negotiation, either party may, by giving written notice, refer the dispute to a meeting of appropriate higher management of each party, to be held within 20 business days after giving notice. If the dispute is not resolved within 30 business days after the date of the meeting of higher management, or any later date to which the parties may agree, either party may bring suit in a court of proper jurisdiction as described below.

B. Buyer hereby irrevocably submits to the jurisdiction and venue of any state or federal court located in the State of New Jersey over any action arising out of any dispute between Buyer and Seller relating to this Contract and agrees that any judgment of any such court shall be binding upon Buyer in any country in which assets of Buyer may be located.

C. Buyer further irrevocably consents to the service of any process in any such action or proceeding upon it by the mailing of a copy of such process to Buyer by registered or certified mail, postage prepaid, return receipt requested and such service of process shall be deemed to have been duly given upon deposit in the United States mail in the foregoing manner.

D. Irrespective of the place of execution or performance, this Contract shall be governed by and construed in accordance with the laws of the State of New Jersey, without giving effect to its principles or laws regarding conflicts of law, and specifically excluding the United Nations Convention on Contracts for the International Sale of Goods of 1980 (and any amendments or successors thereto).

E. Under no circumstances does the Seller submit to jurisdiction outside the United States.

XXII. PRIVACY AND CYBER SECURITY BREACH NOTIFICATION

The Buyer shall immediately notify Seller, by telephone and in writing within fifteen (15) days, in the event of a Data Breach (any unauthorized access to, unauthorized disclosure of, or loss of, personal information or sensitive information held by the Seller, where such access, disclosure or loss is likely to result in serious harm, to any of the individuals to whom the information relates; or if the security of the Seller's information is breached or compromised in any way by unauthorized users, viruses, or malicious computer programs).

XXIII. GENERAL CLAUSES:

A. **Prohibited Use:** Goods sold by Seller must not be used in connection with any nuclear facility or activity or medical or life-saving applications without the written consent of Seller. Buyer warrants that it shall not use or permit others to use Goods for such purposes, unless

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Seller agrees to the use in writing. Buyer shall indemnify and hold Seller harmless against any such liability in accordance with Article XIV above. If Seller agrees in writing to any such use, the parties shall agree upon special terms and conditions that provide Seller's protections against liability and which are acceptable to Seller under the then current applicable laws.

B. **Assignment:** This Contract may not be assigned by the Buyer, or its contents publicized by the Buyer, without the written consent of Seller.

C. **Typographical Errors:** Seller is not responsible for typographical errors or omissions relating to pricing, copy, photography or application. In the event of a pricing error, Seller will contact Buyer via email, phone or fax with the correct pricing information.

D. **Rights and Remedies:** No failure or delay by a party to exercise any right or remedy provided under this Contract or by law shall constitute a waiver of that or any other right or remedy, not shall it preclude or restrict the further exercise of such right or remedy. Except as otherwise limited in this Contract, the rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the parties may have at law or equity. If any provision of this Contract is or becomes void or unenforceable by law, the remainder shall be valid and enforceable.

E. **Entire Agreement:** This Contract incorporating these Conditions represents the entire and final agreement between Buyer and Seller and supersedes all prior negotiations, representations, understandings or agreements (either written or oral) between the parties relating to the Goods. No agent or sales representative of Seller shall have the right to make any representations, warranties or agreement not included herein.

F. **Amendment:** Except as set out in these Conditions, any variation to the Contract including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by both parties.

G. **Survival:** The Articles which expressly or by implication survive termination of this Contract shall continue in full force and effect including but not limited to Articles: VIII (Intellectual Property Indemnification), X (Warranty), XI (Returns Procedure), XIV (Limitation of Liability), XV (Buyer's Indemnity), XVI (Intellectual Property Rights), XVII (Confidentiality), XIX (Export Control Laws), XXI (Dispute Resolution, Jurisdiction and Choice of Law), XXII (Privacy and Cyber Security Breach Notification), and XXIII (General Clauses).



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