

ANADIGICS, Inc.
Standard Terms and Conditions of Purchase

1. ACCEPTANCE: THIS IS A PURCHASE ORDER FOR THE PRODUCTS (THE "PRODUCTS") OR SERVICES (THE "SERVICES") DESCRIBED ON THE FRONT HEREOF (FIRST PAGE HEREOF IF THIS IS A FAX ORDER) (IN EACH CASE, THE "FACE PAGE"). THIS PURCHASE ORDER MAY BE ACCEPTED ONLY IN STRICT ACCORD WITH THE TERMS HEREOF. ANY ADDITIONAL OR DIFFERENT TERMS CONTAINED IN ANY CONFIRMATION, ACKNOWLEDGMENT OR OTHER DOCUMENT SENT BY SELLER WILL NOT BE ACCEPTED AND WILL NOT BE EFFECTIVE TO MODIFY THE TERMS HEREOF. ACCEPTANCE OF THIS PURCHASE ORDER ON THE TERMS HEREOF SHALL BE CONCLUSIVELY EVIDENCED BY SELLER'S ACKNOWLEDGMENT. DELIVERY OF THE PRODUCTS AND/OR COMMENCEMENT OR PERFORMANCE ANY ACCEPTANCE WHICH IS QUALIFIED IN ANY RESPECT OR WHICH CONTAINS ONE OR MORE DIFFERENT OR ADDITIONAL TERMS SHALL BE DEEMED AN OFFER FOR SUPPLEMENTAL TERMS WHICH SHALL BE DEEMED REJECTED BY BUYER UNLESS EXPRESSLY ASSENTED TO IN WRITING. SUCH REJECTION SHALL NOT AFFECT THE TERMS AND VALIDITY OF THIS PURCHASE ORDER.

No change, modification or revision of this Purchase Order shall be effective unless in writing and signed by Buyer's duly authorized purchasing representative, or company officer. For purposes of this Purchase Order, the "Seller" is the Vender listed on the Face Page, and the "Buyer" is ANADIGICS.

2. PRICES: Seller warrants that the prices to be charged for Products or Services identified on the Face Page are not in excess of prices charged to other customers for similar quantities and delivery requirements. In the event of any price reductions during the effective period covered by this Purchase Order which apply to similar products or services, such price reductions shall automatically reduce the unit price of the unshipped Products or Services not yet rendered by a comparable percentage at the time of the price reduction. At any time, Buyer may notify Seller that it has received a bona fide offer to deliver similar goods in approximately the same quantity as the undelivered portion hereunder at a lower price than that which is then in effect under this Purchase Order. If within 15 days of its receipt of such notice, Seller shall not reduce its price hereunder sufficiently to meet the terms of such offer and advise Buyer of such reduction, Buyer may purchase any or all of the undelivered portion of goods hereunder from such offer. All quantities so purchased shall be deleted from this Purchase Order.

3. INVOICES: No invoices will be passed for payment unless it contains the following certification: "The Seller herein represents that the products and/or services covered hereby were produced in compliance with requirements of the Fair Labor Standards Act of 1938 as amended." Payment of invoices shall not constitute acceptance of the Products or Services and shall be subject to adjustment for errors, shortages, defects in the Products or other failure of Seller

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to meet the requirements of the Purchase Order. Buyer may at any time set off any amount owed by Buyer to Seller against any amount owed by Seller or any of its affiliated companies to Buyer. If more than one payment is required to be made hereunder, Buyer may, in its absolute discretion, retain up to 10% of any or all installments until completion of the performance due hereunder, at which time the retained sums, less any sums deducted from the total as a set-off or recoupment, will be paid to Seller.

4. **TAXES AND CHARGES:** All such taxes and charges shall be stated separately on Seller's invoice.

5. **OVERSHIPMENTS:** Buyer will pay only for maximum quantities ordered. Overshipments will be held at Seller's risk and expense for a reasonable time awaiting shipping instructions. In no event will Buyer's liability for overshipments exceed the lesser of 10% of the total price of the shipment or \$200.00. Return shipping charges for excess quantities will be at Seller's expense.

6. **PACKING AND SHIPPING:** Unless otherwise specified, when the price of this Purchase Order is based on the weight of the ordered products, such price is to cover net weight of Products ordered only and no charge will be allowed for boxing, crating, carting, drayage, storage or other packing requirements or any allowance for damage in connection with the foregoing. Unless otherwise specified, all Products shall be packed, packaged, marked and otherwise prepared for shipment in a manner which is: (i) in accordance with industry standards and good commercial practice, (ii) acceptable to common carriers for shipment at the lowest rate for the particular Product and in accordance with ICC regulations, (iii) adequate to insure safe arrival of the Product at the named destination and for storage and protection against weather, and (iv) in compliance with all laws and regulations applicable to the Product. Seller shall mark all containers with necessary lifting, handling and shipping information and also purchase order number, date of shipment and the name of the consignee and consignor. An itemized packing sheet must accompany each shipment unless otherwise specified.

7. **F.O.B. POINT:** Unless otherwise specifically provided on the face of the Purchase Order, the Product called for hereunder shall be delivered on an F.O.B. destination basis to Buyer's designated plant or plants, and shall be shipped pursuant to Buyer's written instructions, which may be changed from time to time. In the absence of specific instructions from Buyer, Seller shall be responsible for ensuring that the mode of transportation is appropriate for the Products and the required delivery time.

8. **WARRANTY:** Seller represents and warrants that all Products and Product components are free from defects in workmanship, material and design, and that the products comply with the Purchase Order and with the drawings, specifications, and samples applicable. Seller warrants that all Products are of

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merchantable quality and are fit and suitable for the purposes designated by Buyer. Seller warrants all non-CAPITAL Products against defects in material and workmanship for a period of 90 days from the time that Seller's Product is placed in complete and full-time operation. Prior testing periods shall not start the running of the 90-day period. Seller agrees to repair the non-CAPITAL product or replace any necessary parts on Buyer's site at no charge to Buyer during the 90-day period. When repairs are required, the 90-day period shall be tolled (interrupted) for the repair period. The 90-day period will resume when the non-CAPITAL product is again in complete and full-time operation. ALL CAPITAL EQUIPMENT WILL BE WARRANTED FOR A ONE (1) YEAR PERIOD FOR PARTS AND LABOR. Outside of said one year period, Seller agrees to sell or otherwise make available to Buyer spare and replacement parts and component systems for all capital equipment to be provided hereunder on commercially reasonable terms and conditions from date of equipment acceptance in fulltime operation (including software). These warranties are in addition to all other warranties, express or implied, and shall survive delivery, inspection, acceptance or payment by Buyer and shall run to Buyer, its successors, assigns, customers and users of its Products. If any Products delivered hereunder do not meet the warranties specified herein or otherwise applicable, Buyer may, at its election: (i) require Seller to correct promptly, at no cost to Buyer, any defective or nonconforming Products by repair or replacement, at the location as specified by Buyer, or (ii) return such defective or nonconforming Products at Seller's expense to Seller, and recover from Seller the Purchase Order price thereof. The foregoing remedies are in addition to all other remedies at law or in equity or under this Purchase Order, for damages or otherwise. Buyer's approval of Seller's Product or design shall not relieve Seller of the warranties set forth in this clause. The provisions of this clause shall not limit or affect the rights of Buyer under the clause hereof entitled "Inspection".

9. INSPECTION: (a) All Products purchased hereunder shall be subject to inspection and test by Buyer to the extent practicable at all times and places during and after the period of manufacture and, in any event, prior to final acceptance. If inspection or test is made by Buyer on Seller's premises, Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of Buyer's inspectors. No inspection or test made prior to final acceptance shall relieve Seller from responsibility for defects or other failure to meet the requirements of this Purchase Order. (b) In case any Product is defective in material or workmanship, or otherwise not in conformity with the requirement of the Purchase Order, Buyer shall have the right to reject it, require its correction, or conditionally accept it. Buyer reserves the right to return such conditionally accepted Products or credit, within a reasonable period of time after receipt in the event that Buyer determines that such Products are unsuitable for its purpose. Any Product which has been rejected or required to be corrected shall be replaced or corrected by and at the expense of Seller promptly after notice. If, after being requested by Buyer, Seller fails promptly to replace or correct any defective Product within the delivery schedule, Buyer may (i) at its

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option, by contract or otherwise, replace or correct such Product and charge to Seller the cost occasioned thereby or (ii) without further notice, terminate the Purchase Order for default in accordance with the clauses herein entitled "Termination for Default" or (iii) utilize the defective Product and require an appropriate reduction in price. (c) Notwithstanding any prior inspection or payment hereunder, all products shall also be subject to final inspection and acceptance at Buyer's plant within a reasonable time and after delivery. Seller shall provide and maintain an inspection system which is acceptable to Buyer. Records of all inspection work shall be kept complete and available to Buyer during the performance of the Purchase Order and for such further period as Buyer may determine. Buyer may accept or reject shipments in accordance with its established lot inspection procedures. Where rejection of a shipment is appropriately based on Buyer's normal inspection level, and where such rejection endangers Buyer's production schedules by reason of the fact that at least some of the products are necessary to meet such production schedules, then Buyer, at its option, may charge Seller for the reasonable costs of an above normal level of inspection up to and including 100% inspection of such shipment. Notwithstanding the foregoing, Buyer shall be under no duty to inspect the Products prior to their use or resale, and neither the use or resale of products shall constitute a waiver of any Buyer's rights, including without limitation rights to set off in whole or in part against any sums payable to Seller whether arising under this Purchase Order or otherwise.

10. CHANGES: Buyer may, at any time by written order, and without notice to sureties or assignees, suspend performance hereunder, increase or decrease the ordered quantity, or make changes in any one or more of the following: (a) applicable drawings, designs or specification; (b) method of shipment or packing and/or (c) place of delivery. If any such change causes an increase or decrease in the cost of or the time required for performance of the Purchase Order, an equitable adjustment shall be modified in writing accordingly. No claim by Seller for adjustment hereunder shall be valid unless in writing accompanied by an estimate of costs within twenty (20) days from the date of receipt by Seller of the notification of change. Failure of Seller to assert a claim within twenty (20) days, as provided above, shall constitute an unconditional and absolute waiver by Seller of any right to make a claim for adjustment. However, nothing in this clause shall excuse Seller from proceeding with the Purchase Order as changed or amended. Buyer reserves the right to verify claims hereunder and Seller shall make available to Buyer upon its request, all relevant books, records, inventories and facilities for its inspection and audit.

11. TERMINATION FOR DEFAULT: (a) Buyer may, by written notice, terminate this Purchase Order in whole or in part if Seller fails (i) to make delivery of the Product or to perform the Service within the time specified herein or (ii) to replace or correct defective Products in accordance with the provisions of those clauses hereof entitled "Warranty" and "Inspection" or (iii) to perform any of the other provisions of this Purchase Order or to so fail to make progress as to endanger

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performance in accordance with the terms hereof, including delivery schedules, or (iv) if Seller becomes insolvent, admits in writing its inability to pay its debts as they mature, files a voluntary petition of bankruptcy, makes an assignment for the benefit of creditors or if a petition under any bankruptcy laws is filed against it. (b) In the event of termination pursuant to this Section 11(a) hereof, Buyer may procure upon such terms and in such manner as Buyer may deem appropriate, products or services similar or substantially similar to those so terminated and Seller shall be liable to Buyer for any excess costs occasioned Buyer thereby, provided that in the event Buyer elects to terminate only a portion of this Purchase order, then in such event Seller shall continue the performance of this Purchase Order to the extent not terminated. (c) If this Purchase Order is terminated pursuant to Section 11(a), Buyer, in addition to any other rights provided herein, may require Seller to transfer title and deliver to Buyer in the manner, time and to the extent directed by Buyer (i) any completed products and (ii) such partially completed Products and material, parts, tool, dies, jigs, fixtures, plans, drawings, information, and contract rights as Seller has produced or acquired for the performance of the terminated part, and (iii) Seller shall grant Buyer a royalty free, assignable, nonexclusive license to use and license others to use, Seller's designs, processes, drawings and technical data, substantially relating to the quantity of the Products terminated hereunder. Seller shall, upon direction of Buyer, protect and preserve property encompassed in this paragraph in the possession of Seller. Payment for completed Products delivered to and accepted by Buyer shall be in an amount agreed upon by Seller and Buyer, however, such amount shall not exceed the Purchase Order price per unit and Seller's obligation hereunder to carry out Buyer's direction as to delivery protection and preservation shall not be contingent upon prior agreement as to such amount. (d) If Buyer issues a notice of termination for default, and it is subsequently determined that Buyer's termination under Section 11(a) is inappropriate, the termination shall be deemed by Buyer and Seller to have been originally issued under Section 12 (Termination for Convenience) and the rights and liabilities of the parties hereto shall in such event be governed by such section. Failure of Buyer to enforce any right under this Section shall not be deemed a waiver of any other right hereunder. The rights and remedies of Buyer under this clause shall not be exclusive and are in addition to any other rights and remedies provided by law and under this Purchase Order.

(e) TIME IS OF THE ESSENCE HEREOF and if any of the Products are not actually received by Buyer within the time specified therefore (or within a reasonable time, if none is specified) for any reason whatsoever (other than as set forth below), Buyer may, in addition to all other rights and remedies it may have hereunder or at law or in equity, refuse to accept the Products (or any of them), and may cancel this Purchase Order without any liability on its part to any person, firm or entity (including, without limitation, Seller) and may recover from Seller any loss or damage whatsoever incurred or suffered by Buyer as a result thereof. SELLER SHALL BE LIABLE FOR INCREASED MANUFACTURING COSTS, LOSS OR PROFITS OR GOODWILL AND OTHER INCIDENTAL OR

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CONSEQUENTIAL DAMAGES ARISING FROM ITS FAILURE TO DELIVER THE PRODUCTS IN A TIMELY MANNER. Buyer's acceptance of the Products shall not constitute a waiver of any claim for delay. Seller, however, shall not be in default by reason of any delay in delivery hereunder, if such delay arises out of causes beyond the control and without the fault or negligence of Seller. In the event of an excused delay, Buyer has the option of extending the time of performance. To the extent the uncompleted portion of this Purchase Order is not terminated, Seller shall allocate the Products covered by this Purchase Order in quantities not less than the ratio that this Purchase Order bears to the total orders of Seller for the same or similar products at the time of the excusable delay. Seller will reasonably notify Buyer of any delay and the estimated quantity of products available for Buyer.

12. TERMINATION FOR CONVENIENCE: (a) Buyer may terminate work under this Purchase Order in whole or part at any time by giving of written notice of Seller specifying the extent to which performance of work is terminated and the time at which such termination becomes effective. After receipt of such notice and except as otherwise directed by Buyer, Seller shall stop work under this Purchase order to the extent specified in the notice of termination. Within thirty (30) days after receipt of the notice of termination, Seller shall submit to Buyer its written termination claim. Failure of Seller to submit its termination claim as provided herein shall constitute an unconditional and absolute waiver by Seller of any claim arising from Buyer's notice of termination. Seller shall reasonably assess cost for raw materials, work in process and subassemblies as may be included within its termination claim to determine whether or not such items may be used by Seller for the manufacture of associated products or diverted for any other purpose and to correspondingly reduce its termination claim by the value of such items. When settlement has been made, title to any such items determined not usable by Seller and charged to Buyer in the termination claim shall vest in Buyer upon payment of the claim and forthwith be delivered to Buyer at Buyer's expense, under Buyer's shipping instructions. (b) Standard or off-the-shelf products: Seller's sole claim for standard or off-the-shelf products shall be limited to a reasonable re-stocking charge not to exceed 10% of the purchase price. (c) Custom products: With respect to custom products, Seller's termination claim shall consist solely of the following: (1) Completed products accepted by Buyer and not theretofore paid for the sum determined by multiplying the number of such products by the unit price therefore as specified in the Purchase Order, and, (2) The total of the cost of work in process not to exceed the average unit cost multiplied by the number of units in process provided, however, that such number of units in process shall not exceed that amount which has been previously placed on a firm release by Buyer. Such amounts shall not include any costs attributable to Seller's products paid to Seller under subparagraph (c) (1). The total sum to be paid to Seller under subparagraphs(c)(1) and (2) above shall not exceed the total Purchase Order price reduced by the amount of payments otherwise made and as further reduced by the price of work not terminated under the Purchase Order. In no event shall Seller be entitled to incidental or

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consequential damages, costs of preparing claims, attorneys' fees, cost of tooling or equipment sales, or agent commissions. Buyer reserves the right to verify claims hereunder and Seller shall make available to Buyer upon its request, all relevant books, records, inventories and facilities for its inspection and audit. In the event Seller fails to reasonably afford Buyer its right of inspection and audit, Seller shall be deemed to have relinquished any claim asserted under this Section.

13. RISK OF LOSS: Notwithstanding any prior inspection and irrespective of the F.O.B. point name herein, Seller shall bear all risks of loss, damage, or destruction on the Products until final acceptance by Buyer at destination. Further, Seller shall also bear the same risks with respect to any Products rejected by Buyer provided, however, that in either case Buyer shall be responsible for any loss occasioned by the gross negligence of its employees acting within the scope of their employment.

14. WAIVER: The failure of Buyer to enforce at any time any of the provisions of this Purchase Order, or to exercise any election or option provided herein, or to require at any time performance by Seller of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of the agreement or any part thereof, or the right of Buyer thereafter to enforce each and every such provision.

15. PATENTS, ROYALTIES AND ENCUMBRANCES: All Products supplied must be free from claims of others with respect to royalties, patent rights and mechanics' liens or other encumbrances or charges. Seller agrees to indemnify and hold harmless Buyer against all claims, demands, costs and actions for actual or alleged infringements of patent rights in the use, sale or resale of said products.

16. BUYER'S PROTECTION IN CONNECTION WITH THE WORK DONE AT ITS PLANT: Seller shall take such steps as may be reasonably necessary to prevent personal injury or property damage during any work hereunder that may be performed by any employees, agents, or subcontractors, of Seller at Buyer's plant and Seller shall indemnify, hold harmless and defend Buyer from and against all loss, liability, liens, claims and damages arising from or caused directly or indirectly by any act or omission of such agents, employees or subcontractors of Seller, and Seller shall maintain such insurance against public liability and property damage, and such Employee's liability and compensation insurance as will protect Buyer against the aforementioned risks and against any claims under any workmen's compensation and occupational disease acts, including without limitation: (i) comprehensive general liability (including products) with limits not less than \$1,000,000 BI and \$500,000 PD; (ii) auto liability with limits not less than \$500,000/600,000 BI and \$250,000 PD; (iii) worker's compensation (including employer's liability) which complies with all statutory regulations in the states in which the work is being done; (iv) umbrella

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(including products) with limits of not less than \$1,000,000 each occurrence of a \$5,000,000 combined single limit. All such policies shall name Anadigics Incorporated as an ADDITIONAL insured, entitled to no less than 30 days notice of cancellation, and evidence of such coverages and endorsements shall be provided to Buyer via Certificate of Insurance.

17. **COMPLIANCE WITH LAWS:** Seller warrants that no law, rule or ordinance of the United States, a state or any other governmental agency has been violated in the manufacture or sale of the Products or in the performance of Services covered by this Purchase Order, and will defend and hold Buyer harmless from loss, cost or damage as a result of any such actual or alleged violation. Seller further warrants that all Products have been manufactured in accordance with and comply with all laws, rules, regulations and requirements of all governmental authorities having jurisdiction and have been properly branded, labeled, tagged, marked and/or registered (if required) in accordance with all applicable laws, rules, regulations and requirements, and Seller's invoices shall bear such separate guarantees provided for under such laws, rules, regulations and requirements (or the appropriate notices that a continuing guaranty has been properly filed and renewed, if necessary, if permitted in lieu thereof). Upon written request by Buyer, Seller agrees to execute and furnish a certification of compliance, which may be on Buyer's form and which shall certify compliance with any applicable federal, state and/or local law or regulation, including, but not limited to, FLSA, EEOC, OSHA, Import and Export, and any Economic Control Statutes or Regulations.

18. **NONDISCLOSURE OF CONFIDENTIAL MATTER AND PUBLICITY:** Products purchased pursuant to Buyer's specification or drawings shall be held in the strictest of confidence in the absence of Buyer's prior written authorization to the contrary. Such specification, drawing, samples or other data furnished by Buyer shall be treated as confidential information by Seller, shall remain Buyer's property and shall be promptly returned to Buyer upon request. Any publicity regarding this Purchase Order (picture, descriptions, notice of award, or samples thereof) is prohibited except with Buyer's written approval.

19. **ASSIGNMENT AND SUBCONTRACTS:** No right or obligation under this Purchase Order (including the right to receive monies due hereunder) shall be assigned by Seller, and Seller shall not enter into any substantial or critical subcontracts without the prior written consent of Buyer. Any purported assignment without such consent shall be null and void and Buyer shall not be obligated to recognize any claim from Seller resulting from a subcontract not previously consented to by Buyer.

20. **BUYER-FURNISHED PROPERTY:** If Buyer supplies any plans, specifications, models and writings of and/or relating to the products (collectively, the "Samples"), to permit Seller, as the bailee of Samples, to manufacture and/or procure the Products, Seller shall have the responsibility for carefully checking

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the Samples for accuracy, design, quality, conformance to specifications, and suitability for use. The Samples and any tools, dyes, molds, drawings, blue prints, specifications or anything else derived by Seller from the Samples (the "Design Work"), shall be used exclusively for Buyer's Products, and may not be disclosed to anyone else or used by Seller for anyone other than Buyer. Seller further acknowledges that Seller is not and shall not become the consignee or owner of any or all of the Samples or the Design Work, shall not obtain a security interest in or to any or all of the Samples or Design Work and may not sell, hypothecate or otherwise assign any rights in or to the Samples or Design Work. Upon Buyer's written request, Seller will, at its sole cost and expense, return the Samples and Design Work to Buyer. Seller agrees to exercise reasonable care in the safeguarding and preservation of all Buyer-furnished property and assumes all responsibility for loss, damage or destruction while such property is within Seller's possession or control. Seller acknowledges that Buyer is the sole owner of all right, title and interest, including, without limitation, intellectual property rights, in and to the Samples and the Design Work. Seller hereby assigns, transfers and conveys to Buyer, without the necessity of any consideration in addition to that recited herein, all right, title and interest in and to the Design Work. This assignment shall be operative with respect to all intellectual property rights in and to the Design Work, including, without limitation, all trade secrets, inventions, know how, ideas and confidential information embodied or reflected in the Design Work, including any shop rights (whether or not patentable or registrable under copyright or similar statutes or subject to analogous protection). Seller acknowledges that all original works of ownership which are made by Seller pursuant to this Purchase Order which are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act (17 U.S.C. § 101). Seller agrees to execute such documents to evidence such transfer as Buyer may reasonably request.

21. PATENT LICENSE: Seller, as part consideration for the Purchase Order and without further cost to Buyer, hereby grants and agrees to grant to Buyer and to the extent requested by Buyer, to the United States Government, an irrevocable, nonexclusive, royalty-free right and license to use, sell, manufacture and cause to be manufactured, products embodying any and all inventions and discoveries made, conceived or actually reduced to practice in connection with the performance of the Purchase Order.

22. SPECIAL TOOLING: If special tooling used in the performance of this Purchase Order have been charged to Buyer, or to this Purchase Order and other orders placed by Buyer, title to such special tooling shall vest in Buyer, at the option of Buyer. Such tooling is to be used only in the performance of such Purchase Orders unless otherwise approved by Buyer. Seller agrees that it will follow normal industrial practice in the identification and maintenance of the property control records on all such tooling, and will make such records available for inspection by Buyer or the government at all reasonable times. After the termination or completion of such order(s) and upon the request of Buyer, Seller

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shall furnish a list of such tooling in the form requested and shall make such tooling available for disposition by Buyer.

23. **GOVERNMENT CONTRACTS:** If this Purchase Order is issued for any purpose which is either directly or indirectly connected with the performance of a prime contract with the United States Government or a subcontract thereunder, each of the named clauses, as set forth in the Armed Services Procurement Regulation in effect on the date of the Purchase Order, is incorporated herein by reference. If such clause is in said prime contract or subcontract, the clause so incorporated, herein applying to Seller as though Seller were a prime contractor, and in such a manner as will enable Buyer to meet its obligations arising out of the government prime or subcontract.

24. **CHANGES IN PROCESS OR METHOD OF MANUFACTURING:** Seller agrees that it will not invoke any changes in process or method of manufacturing during the term of this Purchase Order without Buyer's written consent. Seller further agrees that any contemplated changes in process or method of manufacturing will be submitted to Buyer in sufficient time to enable Buyer a reasonable opportunity in which to evaluate such changes.

25. **COUNTRY OF ORIGIN:** Seller warrants that the Products specified by this Purchase Order are of U.S. origin unless on or before the time it supplies the Products, Seller notifies Buyer's customs department in writing to the contrary. In the event the Products delivered hereunder are of foreign origin, and Seller fails to so notify Buyer, or notifies Buyer erroneously, Seller will indemnify Buyer for all expenses arising from said failure of error, including but not limited to damages, penalties, tariffs, imposts, surcharges, and legal fees incurred by Buyer as a result thereof.

26. **INDEMNIFICATION:** In addition to any other rights and remedies set forth herein, Seller agrees to defend, protect and hold harmless Buyer, its successors, assigns, customers and users of the Products, from and against any and all damages, claims, demands, losses, attorneys' fees, and expenses resulting from (a) any alleged infringement or violation of any patent, trademark, tradename, copyright or other rights of third parties; (b) any actual, alleged or threatened breach of any representation, warranty or agreement set forth herein; (c) any defect or alleged defect in the Products furnished hereunder; (d) the allegedly improper or faulty construction or design of such products; (e) the failure of the Products to comply with specifications or with any express or implied warranties of Seller; or (f) any alleged violation of any applicable law, rule, regulation or order. Seller covenants that Seller will, upon request, defend or assist in the defense, at Seller's expense, of any such suit or claim.

27. **ENTIRE AGREEMENT:** This Purchase Order contains the entire and only agreement between Seller and Buyer with respect to the subject matter covered.

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28. ENCUMBRANCES: Seller shall immediately satisfy any lien or encumbrance which, because of any act or omission of Seller, is filed, or threatened to be filed, against the products to be provided hereunder or against any property of Buyer, and Seller shall save Buyer harmless from all resulting loss and expense, including attorneys' fees. Buyer may, in its absolute discretion, deduct from any sums owing to Seller under this Purchase Order any amount necessary to satisfy any such lien or encumbrance and/or any such resulting loss and expense.

29. RELATIONSHIP OF PARTIES: The parties hereto are and shall be deemed to be independent contractors, and under no circumstances shall Seller or any of its agents, officers, partners, directors, contractors or employees be construed to be an agent of Buyer in any respect. Without limiting the scope of the foregoing, the parties hereto expressly stipulate that the relationship between Seller and Buyer does not and shall not constitute a partnership, joint venture or other similar arrangement.

30. APPLICABLE LAW: This Purchase Order shall be governed by, subject to, and construed in accordance with the laws of the State of New Jersey. This Purchase Order shall not be modified, supplemented, qualified or interpreted by any trade usage or prior course of dealing not made a part of the Purchase Order by its express terms. Buyer and Seller agree and hereby elect to exclude this Purchase Order from the coverage of the United Nations Convention on Contracts for the International Sale of Goods. The parties hereto consent to the jurisdiction of the courts of the State of New Jersey and the United States District Court for the district of New Jersey, as well as the jurisdiction of all courts from which an appeal may be taken from such courts, for the purposes of any suit, action or other proceeding relating to this Agreement or with respect to any transaction contemplated hereby or relating to the Products and expressly waive any and all objections the parties hereto may have as to the venue of such courts to settle or adjudicate any claim or controversy arising hereunder, with respect to any transaction contemplated hereby or relating to the Products. The parties hereto further agree, to the extent permitted by law, that a summons or complaint commencing an action or proceeding in any of such courts shall be served properly and shall confer personal jurisdiction if served personally or by registered or certified mail to the address set forth on the Face Page hereof, or to such other address as either party may substitute by written notice to the other, or as otherwise provided by the laws of the State of New Jersey.

31. EQUAL EMPLOYMENT OPPORTUNITY/COMPLIANCE WITH LAWS: During the performance of any purchase orders placed by Buyer, Seller agrees as follows: (i) Seller will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Seller will take affirmative action to ensure that applicants are employed, and the employees are treated during employment, without regard to their race, color, religion, sex or national origin. In respect of all performance due hereunder, Seller represents and warrants that it is and will be in compliance with all

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applicable provisions of federal, state and local laws and rules, regulations promulgated thereunder, including, without limitation, the following, as amended from time to time: (a) Occupational, Safety and Health Act of 1970, (b) Executive Order 11246, including the "equal opportunity" clause set forth therein (incorporated herein by reference), (c) Rehabilitation Act of 1973 (incorporated herein by reference) and Vietnam Era Veterans Readjustment Assistance Act of 1974 (incorporated herein by reference), including the "affirmative action" clauses set forth therein, (d) Toxic Substances Control Act of 1976, and (e) 33 U.S.C. § 1321 relating to oil spill liability.