

**DANFOSS TURBOCOR COMPRESSORS INC.**  
**STANDARD PURCHASE ORDER FIXED PRICE TERMS AND CONDITIONS**

**CLAUSE 1 - DEFINITIONS**

The following definitions apply unless otherwise specifically stated:

"Article(s)":	Good(s) and service(s) described in this Order;
"Buyer":	The legal entity issuing this Order, Danfoss Turbocor Compressors Inc.;
"Manufacturing Materials":	Supplies, materials, samples, tooling, dies, jigs, fixtures, plans, designs, specifications, software, drawings, technical information, and contract rights;
"Order":	Any purchase order, change order, subcontract, or contract for the Articles;
"Seller":	The person or Company providing the Articles.

**CLAUSE 2 - ORDERS/CHANGE ORDERS**

These Terms and Conditions shall be part of each Order Buyer may issue to Seller. Each Order shall contain a description of the Articles and identify the specifications, drawings, quantities, prices, delivery schedule, terms, and place of delivery. **EACH SUCH ORDER OR CHANGE TO SUCH ORDER MUST BE AUTHENTICATED BY BUYER'S AUTHORIZED PROCUREMENT REPRESENTATIVE TO BE VALID.**

**CLAUSE 3 - AGREEMENT ACCEPTANCE/ MODIFICATIONS**

This Order is Buyer's offer to Seller and acceptance is expressly limited to its terms without additions, deletions, or other modifications. Seller's commencement of performance, delivery of any Articles or acknowledgement of this Order shall conclusively evidence such acceptance. Acceptance of this Order by Seller constitutes an agreement by Seller to perform this Order in accordance with its Terms and Conditions. **NO CHANGE OR MODIFICATION TO THIS ORDER (INCLUDING ANY ADDITIONAL OR DIFFERENT TERMS IN SELLER'S ACCEPTANCE) SHALL BE BINDING ON BUYER UNLESS AUTHENTICATED BY BUYER'S AUTHORIZED PROCUREMENT REPRESENTATIVE.**

**CLAUSE 4 - CHANGES**

(A) Buyer may by written notice to Seller make changes within the general scope of this Order in any one or more of the following:

- (i) drawings, designs or specifications;
- (ii) method of shipment or packaging;
- (iii) place of inspection, delivery or acceptance;
- (iv) amount of Buyer-furnished Manufacturing Materials;
- (v) quantity.

(B) Upon reception of a written notice of change, Seller shall proceed immediately to perform this Order as changed. If any such change causes a material increase or decrease in the cost of, or the time required for the performance of any part of the work in this Order, except as otherwise provided for in paragraph (C) below, Buyer and Seller will agree upon an equitable adjustment in the purchase price or delivery schedule or both. To qualify for adjustment consideration, any notice of intent by Seller to file a claim under this clause must be asserted within twenty-one (21) calendar days from the date of receipt by Seller of such written notice of change. Seller shall proceed with the change pending resolution of any claim for adjustment. Buyer may act upon any such claim at any time prior to final payment under this Order.

(C) Notwithstanding paragraphs (A) and (B) above, Buyer may make changes to this Order's delivery schedule without cost impact, provided that:

- (i) Buyer provides a minimum four (4) weeks notice to Seller for any delivery schedule acceleration;
- (ii) Buyer provides a minimum four (4) weeks notice to Seller for any delivery schedule deceleration; and
- (iii) Prices for rescheduled Articles will be those in effect at the time of the delivery.

(D) Seller shall, at no cost to Buyer, use best effort to support any changes required to Buyer within the four (4) week notice period. Buyer will not hold Seller liable if the Articles are not delivered per the best effort delivery commitments.

(E) Nothing in this clause shall excuse Seller from proceeding with this Order as changed.

**CLAUSE 5 - STOP WORK**

- (A) When directed by written notice from Buyer, Seller shall immediately stop all or part of the work relating to this Order to the extent specified in the notice for a period of up to one hundred-eighty (180) calendar days or longer if extended by mutual agreement.
- (B) If a stop work notice is cancelled or the period of the Stop Work notice, or any agreed extension thereof expires, Seller shall resume work and Buyer and Seller will agree upon a reasonable adjustment in the delivery schedule. In no event shall such adjustment exceed the period of time in which the Stop Work notice was in effect. Except as otherwise provided herein, no adjustment in the total Order price will be incurred by issuance of a Stop Work notice.

**CLAUSE 6 - TERMINATION FOR CONVENIENCE**

(A) Notwithstanding any other provisions of this Order, the Buyer may by written notice terminate for its convenience the whole or any part of this Order. Upon receipt of such notice, the Seller shall immediately cease work, including but not limited to the manufacture and procurement of materials for the fulfillment of the terminated portion of this Order.

(B) In the event of termination pursuant to paragraph (A) above, Buyer and Seller will agree upon an adjustment of the Order price, provided that:

- (i) such adjustment shall not exceed the Order total price;
- (ii) except as otherwise provided herein, no amount will be allowed for profit on the terminated portion of this Order, regardless of whether the work on the terminated portion has been performed;
- (iii) except as otherwise provided herein, in the event of a partial termination no adjustment will be made on the price of the remaining portion of this Order, i.e., that portion which has not been terminated;
- (iv) the Buyer shall pay the Order price for completed Articles delivered and accepted pursuant to paragraph (C) below;
- (v) the Seller and Buyer shall agree on the amount of payment for Manufacturing Materials delivered and accepted pursuant to paragraph (C) below;
- (vi) Seller's written intent to file a claim for adjustment is received by Buyer within twenty-one (21) calendar days from the effective date of termination;
- (vii) Seller's final claim is received within ninety (90) calendar days from the date that intent to claim is filed. Seller shall have no other remedies after this period; and
- (viii) the Seller shall continue the work not terminated. Failure to agree will be a dispute under the Disputes clause 24.

(C) If this Order is terminated pursuant to paragraph (A) above, the Buyer may require the Seller to transfer the title and deliver as directed by the Buyer, any (i) completed Articles, and (ii) Manufacturing Materials that the Seller and its subcontractors have specifically produced or acquired for the portion of this Order under notice of termination for convenience. Upon direction of the Buyer, the Seller shall also protect and preserve property in its possession in which Buyer has an interest.

**CLAUSE 7 - TERMINATION FOR DEFAULT**

(A) If the Seller is in default in carrying out any of its obligations under this Order, the Buyer shall, prior to termination of the whole or part of this Order, give the Seller notice of such default. The Seller shall have ten (10) calendar days (or more if authorized in writing from the Buyer) from the date of receipt of such notice in which to cure the default or to satisfy the Buyer that such default shall be cured within a period of time acceptable to the Buyer. Upon failure to cure the default within such period of time, Buyer may give the Seller written notice of termination for default.

(B) Where the Seller becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors, or where a receiver is appointed under a debt instrument or a receiving order is made against the Seller, or an order is made or a resolution passed for the winding up of the Seller, the Buyer may,

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upon giving written notice to the Seller, immediately terminate for default the whole or any part of this Order.

- (C) Upon the giving of a notice provided for in paragraph (A) or (B), the Seller shall have no claim for further payment other than as provided in this Clause, but shall be liable to the Buyer for all direct losses and direct damages which may be suffered by the Buyer by reason of the default, including any increase in the costs incurred by the Buyer in procuring the Articles from another source. Nothing in this Clause affects any obligation of the Buyer under the law to mitigate damages and Seller shall proceed with the portion of this Order not terminated under the provisions of this clause.
- (D) If this Order is terminated for default, the Buyer may require the Seller to transfer the title and deliver, as directed by the Buyer any (i) completed Articles, and (ii) Manufacturing Materials that the Seller and its subcontractors have specifically produced or acquired for the portion of this Order under notice of termination for default. Upon direction of the Buyer, the Seller shall also protect and preserve property in its possession in which the Buyer has an interest.
- (E) Upon receipt of a notice provided for in paragraph (A) or (B), the Seller shall have no claim for further payment other than as provided in this clause. The Buyer shall pay the Order price for completed Articles delivered and accepted. The Seller and Buyer shall agree on the amount of payment for Manufacturing Materials delivered and accepted. Failure to agree will be a dispute under the Disputes clause 24. The Buyer may withhold from these amounts any sum the Buyer determines to be necessary to protect the Buyer against loss because of outstanding liens or claims of former lien holders and Buyer's estimate of excess re-procurement costs due Buyer.
- (F) If, after termination for default under this clause 7, it is determined that the Seller was not in default, or that the default was excusable, as defined in the excusable delay clause 8, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Buyer and the provisions of the termination for convenience clause 6, will apply.
- (G) The rights and remedies of the Buyer in this clause or in any other clause of this Order are in addition to any other rights and remedies provided to Buyer by the law or under these Terms and Conditions.

**CLAUSE 8 - EXCUSABLE DELAY**

- (A) A delay in the performance by the Seller of any obligations under this Order which is caused by an event which:
  - (i) is an act of God, act of government, fire, riot, war, or any other event which constitutes a superior force and is beyond the reasonable control of the Seller, and without any fault on the part of the Seller; and
  - (ii) interferes with the performance of Seller's obligations; and
  - (iii) the effects of which could not reasonably have been avoided by the Seller

shall, subject to the provisions of this clause, constitute an excusable delay.

- (B) In addition to the events described in paragraph (A), a delay caused by the default of a subcontractor of the Seller shall constitute an excusable delay if the event causing the default of such subcontractor is an event which meets the criteria set out in paragraph (A) and such delay has not been contributed to by the Seller, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Seller to meet the required delivery schedule.
- (C) Except as otherwise provided herein; neither (i) lack of financial resources of the Seller or its subcontractors, nor (ii) any labour disturbances including strikes/lock-outs experienced by the Seller or its subcontractors, shall, for the purposes of this clause, be considered as events beyond the reasonable control of the Seller.
- (D) To claim an excusable delay, the Seller shall, by written notice to the Buyer, advise the Buyer of the occurrence of an event that has resulted or is likely to result in an excusable delay and provide the Buyer with an acceptable "work-around" plan within ten (10) calendar days of such facts coming to the

attention of Seller. The Buyer shall accept or reject such "work-around" plan in writing and, if accepted, the Seller shall promptly implement such "work-around" plan at Seller's expense.

- (E) In the event of an excusable delay, any affected delivery date shall be postponed for such period as is reasonably necessary to offset the effects of the excusable delay. In no event shall the delivery date be extended by a time period longer than the time period in which the excusable delay was in effect. No adjustment will be made to this Order price; adjustment to the delivery schedule is the exclusive remedy of the Seller in the case of an excusable delay.
- (F) Notwithstanding the above, after an excusable delay has continued for a period of thirty (30) calendar days in the aggregate the Buyer may, in the Buyer's absolute discretion, terminate this Order. In the event of such termination, the rights and obligations of Buyer and Seller shall be determined in accordance with the provisions of the termination for convenience clause 6 herein.

**CLAUSE 9 - BUYER-FURNISHED MANUFACTURING MATERIALS**

- (A) Seller shall not use, reproduce, or disclose for the benefit of any party other than Buyer, any Manufacturing Materials furnished by Buyer. Seller shall not use the Manufacturing Materials to produce or manufacture Articles, other than those required by this Order, without prior written authorization from Buyer.
- (B) Title to Manufacturing Materials furnished by Buyer shall be and remain with Buyer at all times. Seller shall bear the risk of loss, damage or destruction of the Manufacturing Materials furnished by Buyer and shall promptly replace or repair without expense to Buyer any of the Manufacturing Materials which are lost, damaged or destroyed, unless such loss, damage or destruction is solely and directly caused by Buyer's negligence.
- (C) Seller shall be responsible for care, maintenance, use and records of Buyer-furnished Manufacturing Materials. Physical inventories will be performed as required by Buyer.
- (D) All Buyer-furnished Manufacturing Materials, together with spoiled and surplus materials and Articles, shall be returned to Buyer upon termination or completion of this Order unless Buyer shall direct otherwise Seller in writing. When Buyer approves Manufacturing Materials to be furnished to Seller's subcontractors for procurement of Articles by Seller for use in the performance of Buyer's Order, Seller shall insert the substance of this clause in its subcontracts.
- (E) Seller acknowledges that Buyer's Manufacturing Materials are unique and proprietary and that monetary damages will be inadequate to compensate Buyer for Seller's breach of this provision. The parties agree that, in addition to any other remedies available to Buyer under this Order, or at law or in equity, Buyer will be entitled to seek injunctive relief to enforce the terms of this clause.

**CLAUSE 10 - QUALITY CONTROL/INSPECTION**

- (A) Seller shall provide and maintain a quality control system acceptable to Buyer, which is in compliance with international standards, such as ISO9000. Upon request from Buyer, Seller shall provide a copy of its current quality control documents and any certificate of compliance provided by any third-party certification agency. Seller agrees to permit Buyer to review its procedures, practices, processes and related documents to determine such acceptability. This system acceptability requirement shall remain applicable to Seller in addition to any special quality assurance provisions that may be incorporated elsewhere in this Order. Seller shall provide, at no charge to Buyer, appropriate facilities to allow the Buyer to perform quality control/inspection activities hereunder.
- (B) All Articles are subject to final inspection and acceptance by Buyer at destination notwithstanding any payment or prior inspection at source. The final inspection will be made within a reasonable time, not to exceed ninety (90) calendar days after receipt of the Articles. Buyer shall notify Seller if any Articles delivered hereunder are rejected, and such Articles may be returned to Seller at Seller's risk and expense at Buyer's discretion. Inspection and tests by Buyer do not relieve the Seller of responsibility for defects or other failures to meet this Order's requirements. Acceptance shall

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not be final with respect to latent defects, fraud, or gross mistakes amounting to fraud.

- (C) The Seller shall have an effective program for investigation, corrective action, and follow-up for rejections initiated by the Seller or Buyer. When the Buyer discovers discrepancies for which the Seller is responsible, the Buyer may forward a request for corrective action to the Seller for action and response. The Seller's response shall be returned to the Buyer within thirty (30) calendar days, and shall include the causes of the discrepancy(s), the positive corrective action(s) taken to prevent recurrence, and the corrective action effective point by unit serial number or date.

**CLAUSE 11 - TOOLING**

- (a) All Buyer-property tools stored at Seller's facility for the performance of the Order or potential future Orders will be maintained using industry best practices and insured at replacement value at Seller's expense.
- (b) Buyer's property tools lost, damaged or destroyed by Seller shall be charged to the Seller at replacement value.
- (c) New tooling required and fabricated by Supplier to fulfill this Order must comply in full to Buyer's general tooling specification no. ENG-001 11S. Invoices for such new tooling will not be processed until Buyer's inspection has accepted first Articles produced from such tools and that the Supplier has complied with all requirements in Buyer's general tooling specification no. ENG-00111S.
- (d) Upon request by Buyer, Seller shall make available to Buyer at all times all Buyer-property tools stored at Seller's facility. Buyer has the right to recall at any time any and all Buyer-property tools stored at Seller's facility, and Seller shall provide support and assistance to the Buyer to perform the above.

**CLAUSE 12 - WARRANTY**

- (A) Seller warrants that all Articles delivered under this Order will be free from defects in design, material and workmanship, will conform to applicable descriptions, specifications and drawings and are suitable for the purpose intended. **THIS WARRANTY SHALL BE IN ADDITION TO ALL WARRANTIES ARISING AS A MATTER OF LAW.**
- (B) Seller's warranty under paragraph (A) above shall be enforceable by Buyer's customers as well as Buyer and shall be valid for thirty-six (36) months after shipping from Buyer's dock to Buyer's customers.
- (C) Defective Articles will be returned to Seller at Seller's expense for repair or replacement, at Buyer's option. The repaired or replacement Articles will be returned by Seller, Free Carrier (FCA) Seller's facility (as defined by Incoterms. Refer to the Incoterms website for further definition if required), to Buyer within twenty-one (21) calendar days from receipt of the defective Article by Seller. For valid warranty claims, Buyer shall debit Seller's account for actual freight charges incurred both from and to the Buyer. If Buyer finds it impractical to return defective Articles, Buyer may perform necessary repair at its own facility and charge the reasonable cost thereof to Seller.

**CLAUSE 13 - INTELLECTUAL PROPERTY RIGHTS AND INDEMNITY**

- (A) Seller agrees to assign and hereby assigns to Buyer any interest Seller may have in invention(s) conceived by Seller and/or reduced to practice by Seller using funds provided by Buyer and Seller assigns and transfers to Buyer any intellectual property rights which it may have in connection with such invention.
- (B) With respect to Articles delivered under this Order, Seller shall indemnify Buyer, its agents, customers, and users of its products against all loss, damage and liability incurred on account of any infringement or alleged infringement of a patent, copyright, or trademark or misappropriation of a trade secret or other violation of an intellectual property right of a third party, arising out of the manufacture, sale or use of such Articles by Seller, Buyer, Buyer's agents, customers, or users of its products; and Seller shall at its own expense defend all claims, suits and actions against Buyer, its agents, customers, or users of its products in which such infringement or other violation of an intellectual property right of any third party is alleged, provided Seller is notified of such claims, suits, and actions. This indemnification does not apply to articles manufactured to detailed designs developed and furnished by Buyer.

**CLAUSE 14 - BOOKS AND RECORDS**

Seller shall provide authorized representatives of Buyer reasonable access to its books, records and data which will permit the adequate evaluation of cost data, direct materials, labour hours, and incorporated rates used by Seller to arrive at a price. In addition, any proposals submitted by the Seller, pursuant to the Changes clause 4, termination for convenience clause 6, or termination for default clause 7, shall also include sufficient cost data and reasonable access to Seller's books, records and data as indicated herein. At Buyer's request, Seller shall provide copies of collective labour agreements, if any, and audited company financial statements.

**CLAUSE 15 - PRICES, PAYMENT AND DISCOUNT**

Payment by Buyer will be made net sixty (60) days from either (i) the date of acceptance of the Articles or (ii) from receipt of an acceptable invoice by Buyer, whichever is later. Any payment discounts will be calculated from the same date. Discount terms shall be clearly stated on the face of each invoice.

**CLAUSE 16 - INVOICING, PACKING AND SHIPPING**

- (A) Separate invoices indicating Order number, line item number(s), quantity, unit price and extended value are required for each Order unless Pay Upon Receipt has been established with the Seller. On the date of shipment(s) Seller shall mail two copies of each invoice to:  
**Turbocor Inc.**  
**1769 E. Paul Dirac Drive**  
**Tallahassee, FL 32310, USA**  
**Attn: Accounts Payable Department**
- (B) Seller shall comply with the routing instructions shown on this Order. Premium transportation cost will be paid by Buyer only when specifically authorized by Buyer. If delays caused by the Seller result in the need for premium transportation, the additional costs for the premium transportation is the sole responsibility of the Seller. Seller shall not pre-pay, insure, or declare value of any shipment made FCA shipping point, unless otherwise agreed to by Buyer in writing.
- (C) Separate packing lists are required for each Order and must accompany each shipment. The location of the packing slip must be clearly marked on the container. The complete Order number must appear on all documents.
- (D) Single Article containers will be identified with Order, part number, and quantity. When multiple Orders or Articles are combined in one container, they must be separately packaged inside that container and the packages identified as to Order, part number and quantity.
- (E) All Articles must be suitably packaged and prepared for shipment to withstand normal transportation and stocking functions. Containers must be in compliance with best commercial practices.
- (F) Test reports, X-rays, certificates and other supporting documents must accompany each shipment when required by this Order.
- (G) Articles will be marked in such a manner as to be readily identifiable with the part number reflected on this Order. Kits, assemblies and all parts consisting of multiple Articles, that is, hardware, pins, gaskets, etc., must be unit packaged as a complete unit and so identified. If the Article is individually packaged, the package will be so marked. Single Articles too small to be separately identified will be separated into lots and tagged or bagged. Proper markings corresponding to the Order description and part number shall be applied to the tags and/or bags for handling and storage purposes.
- (H) Seller will provide bar coded shipping labels with each shipment on each packing list in a Buyer's agreeable format.
- (I) With each shipment to Buyer the Seller shall include on the packing slip a "Statement of Product Conformity". Unless otherwise specified by the contract, Buyer's drawings, specifications or standards, the Seller shall include a statement declaring compliance to all requirements specified in applicable drawings, standards and/or specifications documents. Seller's authorized quality representative must sign this certificate of compliance.

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- (J) A monthly account statement shall be mailed to Turbocor's Accounts payable on the first week of each month.

names of any product or services for which Buyer owns the trademark or (iii) provide a link to any domain name or internet address registered to Buyer or any of its affiliates.

**CLAUSE 17 - DELIVERY**

- (A) Seller shall be responsible for the Articles covered by this Order until they are delivered to the designated FCA point specified on this Order. If Articles are received more than seven (7) calendar days ahead of the specified schedule, Buyer reserves the right to keep the Articles and make payment as if the delivery was made per the specified delivery schedule or to return the Articles to Seller at Seller's expense. In the latter case, Buyer shall debit Seller's account for actual freight charges incurred both from and to Buyer. The delivery dates contained in this Order are the dates that the Articles are required on dock at Buyer's facilities.
- (B) Time is of the essence in performing this Order. Should Seller experience or anticipate any delay in performing this Order, Seller shall immediately notify Buyer in writing of such delay, its expected duration and the reasons thereof. Neither such notification nor an acknowledgement by Buyer shall constitute a waiver of this Order's specified delivery schedule. The delivery schedule shall not be modified unless the parties do so in writing, except as otherwise provided in the Changes clause 4. Seller shall be liable for any direct damages resulting from a delay in delivery unless the delay is excusable as defined in the excusable delay clause 8.

**CLAUSE 18 - IDENTIFICATION AND TRACEABILITY**

Where possible or when required by Turbocor, each Article must be clearly marked with permanent ink, or other acceptable means to Buyer, with Turbocor's part number (or the Supplier's part number for standard parts), revision level and date of manufacturing (ddmmyy)(day & year = numeric, month = alphabetic).

**CLAUSE 19 - ASSIGNMENT**

- (A) Neither this Order nor any interest herein nor any claim hereunder shall be assigned by Seller either voluntarily or by operation of law without the prior written consent of Buyer. An assignment without Buyer's written consent is ineffective and void. Buyer has an absolute right to withhold consent in Buyer's sole discretion. No such consent shall be deemed to relieve Seller of its obligations to comply fully with the requirements hereof. Seller may, however, without Buyer's consent, assign monies due and to become due hereunder if the following conditions are met:
- (i) Buyer shall continue to have the right to exercise any and all of its rights hereunder, settle any and all claims arising out of, and enter into amendments hereto, without notice to or consent of the assignee;
  - (ii) The entire amount of said monies is assigned to a single assignee, and shall not be subject to further assignment; and
  - (iii) Buyer is given notice of the assignment and all invoices submitted by Seller contain adequate reference to the assignment.
- (B) Any costs associated with Buyer's efforts to approve an assignment including, but not limited to, quality assurance or financial audits, shall be borne by the Seller. Should the assignment be unacceptable to the Buyer, this Order will be terminated and the provisions of the Termination for Default clause 7 will apply.
- (C) The Terms and Conditions of any Order assigned by the Seller shall be the same as those of the original Order.

**CLAUSE 20 - SALES LIMITATION**

Articles carrying Buyer's part numbers may not be sold to third parties without the prior written consent of Buyer.

**CLAUSE 21 - PUBLIC RELEASE OF MATERIAL**

Seller shall not advertise or publicize without Buyer's prior written consent, in any medium, including, without limitation, any print, broadcast, direct mailing, or any internet web site maintained by or for Seller, the fact that Seller is a supplier of Articles to Buyer. Neither Seller nor its subcontractors, suppliers or agents shall, without Buyer's prior written consent, (i) use Buyer's name, photographs, logos, trademarks, or any other identifying information in any such medium (ii) use (except to communicate with Buyer or its affiliates) any internet domain names, metatags, or electronic mail addresses containing the name "Turbocor" or the

**CLAUSE 22 - SET-OFF AND WITHHOLDING**

Buyer shall have the right of set-off against any payments due hereunder by Buyer or at issue under this Order or any Order between Buyer and Seller any sum due by Seller to Buyer. Buyer may withhold from payment to Seller in an amount sufficient to reimburse Buyer for any loss, damage, expense, cost or liability relating to Seller's failure to comply with any requirements of this Order.

**CLAUSE 23 - DRAWINGS**

- (A) In the performance of this Order, Seller is obligated to manufacture Seller designed Articles to the Seller's drawing revision level as specified in this Order or approved by Buyer. In cases where manufacturing will be to a different revision level, Seller will provide Buyer released updated drawings with explanation as to how the present configuration differs from the specified or approved revision level configuration. Seller must receive Buyer approval of updated drawing prior to the manufacturing and shipment of Articles to Buyer.
- (B) No review and/or approval by the Buyer of any work hereunder or of any designs, drawings, specifications or other documents prepared by Seller shall be construed to relieve Seller, in any way from design responsibility for the Articles to be delivered hereunder, or from responsibility to comply with the requirements of this Order.

**CLAUSE 24 - DISPUTES**

- (A) In the event of a dispute arising between Buyer and Seller which is not disposed of by agreement, Seller shall request a final written decision from Buyer's Management. If the parties cannot agree on a dispute resolution process or otherwise resolve a dispute, the said dispute will be filed in the proper court for disposition pursuant to the Applicable Law and Venue clause hereof.
- (B) Pending final resolution of any dispute or appeal hereunder, the Seller shall proceed diligently with the performance of this Order as directed by the Buyer. If the dispute arises out of a difference in interpretation between the parties as to the performance requirements of this Order, then Seller shall continue performance as determined by the Buyer.

**CLAUSE 25 - GRATUITIES**

- (A) Seller (or any agent or representative of Seller) will not offer or provide gratuities to any employee of Buyer. Failure of Seller to honour this commitment may, at Buyer's option, result in immediate termination of this Order in accordance with the Termination for Default clause 7, without provision for cure.

Seller is prohibited from providing, offering, or attempting to offer kickbacks or soliciting or accepting kickbacks. Seller shall have and follow procedures designed to prevent and detect possible violations, shall report in writing any violation to the Buyer's board of Directors, and shall cooperate fully with any Government agency investigating a possible violation. The substance of this clause shall be included in all subcontracts issued under this Order.

**CLAUSE 26 - COMPLIANCE WITH LAWS**

Seller shall comply with all applicable federal (Canada and U.S.), state, provincial, and local laws, including, but not limited to, laws with respect to the protection of the environment, and Seller hereby certifies that it is in compliance with all applicable such laws and regulations in the production of the Articles, and that the Articles themselves are compliant with all applicable laws. Seller shall indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense, including lost profit, attorney's fees and court costs, for any failure or alleged failure of Seller to comply with the requirements of this clause or for any release or threat of release of any hazardous substance, hazardous or solid waste, pollutant or contaminate from any site now, or in the past, owned or operated by Seller, or any site where Seller disposed of or arranged for the disposal of any hazardous substance, hazardous or solid waste, pollutant or contaminate.

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**CLAUSE 27 – PRODUCT ORIGIN**

As requested by Buyer, the Seller shall provide (i) a NAFTA Certificate of Origin, when Articles provided under this Order originate in North America or (ii) a statement specifying the country of origin when Articles provided under this Order originate outside North America.

**CLAUSE 28 – HAZARDOUS MATERIAL**

Seller certifies that it is in compliance with any federal, provincial, or state laws, including but not limited to the Canadian Hazardous Products Act, or the U.S. Occupational Safety and Health Act of 1970 (OSHA) as applicable. Furthermore, if the Articles purchased herein are considered toxic or hazardous as defined in the above set of regulations, Seller shall provide a copy of the current Material Safety Data Sheet (MSDS) with each shipment or as otherwise specified on this Order.

**CLAUSE 29 - INDEMNIFICATION**

Seller shall hold harmless and unconditionally indemnify Buyer, its directors, officers and employees to the full extent of any liability, loss, cost, claim, damage, or expense including, but not limited to, reasonable attorneys' fees for the defense of all liabilities, costs, claims, damages and expenses by reason of any alleged or actual property damage or personal injury arising out of, as a result of, or in connection with the work performed hereunder due to any act or omission of Seller, its officers, employees, agents, subcontractors or lower tier subcontractors.

**CLAUSE 30 – PRICE – MOST FAVOURED CUSTOMER**

Seller warrants and represents that the Article's price in this Order does not exceed the contract price for the same or similar Articles to any other customer during the term of this Order. If during the term of this Order, the Seller shall sell any Articles of the kind, in equivalent quality or quantity described in this Order, to any other customer at a price which is lower than the price then in effect under this Order, such lower price shall thereafter apply on all Articles shipped under this Order so long as said lower price shall remain in effect and the price of this Order shall be reduced accordingly and this Order shall be modified to reflect the reduction.

**CLAUSE 31 - APPLICABLE LAW AND VENUE**

- (A) This Order including these Terms and Conditions are governed by and construed exclusively under the laws of the State of Florida and the United States applicable therein. Both Buyer and Seller hereby submit to the sole and exclusive jurisdiction and venue of the courts having jurisdiction in Leon County, Florida any legal action related to or arising under this Order governed by these Terms and Conditions. Buyer and Seller hereby agree that the above sets forth the sole and exclusive jurisdiction and venue in which any lawsuit involving this Order may be filed.
- (B) The parties agree that these Terms and Conditions and any document referenced herein or attached hereto be drafted in English. Les parties aux présentes ont convenu que ces termes et conditions et tout document s'y rapportant ou y étant joint soient rédigés en anglais seulement.

**CLAUSE 32 - PARTIAL INVALIDITY; WAIVER**

If any provisions of this Order including these Terms and Conditions become void or unenforceable, the other provisions shall remain valid and enforceable. Waiver of one or more provisions of these Terms and Conditions by Buyer shall in no way act as a waiver of any of the other provisions herein. No failure by either party to take any action or assert any right hereunder shall be deemed to be a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right.

**CLAUSE 33 - ORDER OF PRECEDENCE**

In the event of any inconsistency among the provisions of this Order hereunder, such inconsistency shall be resolved by giving precedence in the following sequence:

- (A) Provisions typed on the face of this Order,
- (B) Memorandum of Agreement / Overriding Agreement, as applicable,
- (C) Buyer's drawings and specifications,
- (D) Terms and Conditions,
- (E) Other documents, exhibits, and attachments to this Order.

**CLAUSE 34 – OUTSOURCING/OFFSET CREDIT**

Seller may not offer to subcontract or otherwise procure any Articles or part thereof ordered hereunder, to any subcontractor, supplier, or other source without the prior written approval of Buyer, except for outside processes as approved by Buyer.

**CLAUSE 35 – NON DISCRIMINATION**

By acceptance of this Order, Seller agrees that during the performance of this Order, Seller will treat all applicants for employment and employees without unlawful discrimination as to age, gender, race, national origin, disability, veteran status, citizenship status, colour, religious belief, sexual orientation or marital status.

**CLAUSE 36 - ELECTRONIC DATA INTERCHANGE**

Buyer and Seller agree that in the event any part of the purchase and sale of Articles covered by these Terms and Conditions shall hereafter be effected using electronic data interchange, these Terms and Conditions shall continue to apply thereto in conjunction with the Trading Partner Agreement between Buyer and Seller.

**CLAUSE 37 – GOVERNMENT REGULATIONS RELATING TO EXPORT/IMPORT OF ARTICLES AND DATA**

The Articles and data provided under this Order may be subject to the provisions of the Canadian Export and Import Permits Act (RS Chapter 17); the Export Administration Act of 1979 (50 USC 2401-2420) and the Export Administration Regulations (15 CFR 768-799) promulgated there under; and the Foreign Corrupt Practices Act.

The parties acknowledge that these statutes and regulations impose restrictions on import, export and transfer to third countries of certain categories of data and Articles, and that licenses from the Canadian Department of Foreign Affairs and International Trade and/or the U.S. Department of State and/or U.S. Department of Commerce may be required before such Articles and data can be provided hereunder, and that such licenses may impose further restrictions on use of such Articles and data. Disclosure of such Articles and data to foreign persons is subject to the above regulations regardless if the export occurs in Canada, the U.S. or abroad. Seller agrees to comply with all Canadian and U.S. Governmental regulations mentioned above as they relate to the import, export and re-export of Articles and data. Seller shall indemnify and hold Buyer harmless to the full extent of any loss, damage or expense, including lost profit, attorney's fees and court costs, for any failure or alleged failure of Seller to comply with the above referenced laws and regulations.

**CLAUSE 38 - ENTIRE AGREEMENT**

This Order, including attachments hereto, constitutes the entire understanding and agreement between the parties with respect to the subject matter hereof and supersedes all prior representations and understandings, whether oral or written. However, nothing herein shall be construed as a limitation or exclusion of any right or remedy available to Buyer by law. Buyer and Seller agree that the U.N. Convention on contracts for the international sale of goods shall not apply to any purchase and sale of Articles governed by these Terms and Conditions.

**CLAUSE 39 – INDEPENDENT CONTRACTORS**

The parties hereto are independent contractors and not employees, agents or representatives of one another for the purposes of this Order.