



STANDARD TERMS AND CONDITIONS

1. **General:** This purchase order is an offer by Infinity Engineered Products, LLC (the "Buyer") for the purchase of the goods and/or services specified on the face of this purchase order (the "Goods" or "Services" as applicable) from the party to whom the purchase order is addressed (the "Seller") in accordance with and subject to these terms and conditions (the "Terms"; together with the terms and conditions on the face of the purchase order, the "Order"). This Order, together with any documents incorporated herein by reference, constitutes the sole and entire agreement of the parties with respect to the Order, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties and communications, including but not limited to provisions in Seller's quotations, proposals, terms and conditions, acknowledgments, invoices or other documents, whether written or oral, with respect to the subject matter of the Order. The Order expressly limits Seller's acceptance to the terms and conditions contained in the Order. Any acknowledgment form or other form of Seller containing terms and conditions of sale submitted to Buyer from Seller shall not have the effect of modifying these Terms. Any such additional or different terms and conditions are hereby objected to and rejected by the Buyer. Buyer may consider Seller's request for changes only if such request is made in writing and directed to specific clauses in these Terms within ten (10) days of issuance of this Order. No change or modification to these Terms shall be binding upon Buyer unless specifically accepted in writing by Buyer.
2. **Acceptance:** An Order is not a firm offer until accepted and Buyer reserves the right to revoke it at any time prior to Seller's acceptance. This Order becomes a binding contract, subject to these Terms, when accepted by acknowledgement or commencement of performance and is binding on the heirs, successors, assigns, and representatives of the Seller. By acceptance of the Order, Seller agrees to comply with these Terms and to provide all Goods and/or Services as described within the Order.
3. **Delivery:**
 - A. Time is of the essence in regard to fulfilling this Order. Seller shall deliver the Goods and/or Services ordered by Buyer no later than the required date of delivery or performance as specified on the Order or as otherwise agreed upon by the parties (the "Delivery Date"). Seller shall immediately notify Buyer in the event that Seller's performance is delayed or likely to be delayed, in whole or in part, and Seller shall provide Buyer with all information regarding any reasons for such delay. Such notice shall not constitute a waiver by Buyer of any Seller's obligations under the Order. If Seller fails to meet the Delivery Date, Buyer, without limiting its other rights or remedies, may cancel all or a portion of the Order. Seller will limit and phase expenditures, incurrence of costs, and purchases and subcontract commitments for raw materials and components in such a fashion to ensure continuity in production and permit performance and completion of each production increment in sequence without creating any unreasonable accumulations of raw materials or work in process of components for any production increments.
 - B. All Goods shall be delivered to the address specified on the Order (the "Delivery Location") during Buyer's normal business hours or as otherwise instructed by Buyer.
 - C. If the specified mode of transportation for the Goods would not permit the Seller to meet the Delivery Date, Seller shall ship the Goods by air freight or other expedient means acceptable to the Buyer and Seller shall pay the costs of such expedited shipment, over the cost of the specified mode of transportation.
 - D. Seller shall indemnify Buyer for any losses, claims, damages and reasonable costs and expenses related to production line stoppages incurred by Buyer or charged to Buyer by its customers, which are caused by the failure of Seller to deliver its Goods and/or Services by the Delivery Date. Excepting therefrom, late delivery caused by Acts of God, fire, flood, epidemic, strike, work stoppage or other labor difficulty, acts of governmental authority, federal, state, or local laws, orders or regulations, embargo, war, terrorist act, riot, civil commotion and/or insurrection or other extraordinary events or occurrences beyond Seller's control and without its fault or negligence ("Force Majeure Event"), provided Seller immediately notifies Buyer of said event and the estimated delay in delivery. For the avoidance of doubt, economic hardship of an affected party shall not be considered a Force Majeure Event.
 - E. If the Goods and/or Services received by Buyer are in excess of the volume stated on the Order or are delivered more than five (5) days prior to the Delivery Date, Buyer may reject such delivery of Goods and/or Services and may return such rejected Goods at Seller's own risk and expense, including, without limitation, transportation and insurance charges.
 - F. Buyer may delay delivery or acceptance occasioned by reason of a Force Majeure Event or other causes beyond its control. Seller shall hold such Goods at the direction of the Buyer and shall deliver them when the cause affecting delay has been removed.
4. **Shipment:**
 - A. Unless otherwise specified in the Order, all shipments shall be made with incoterms FCA shipping point.
 - B. Title passes to Buyer upon delivery of the Goods to the Delivery Location free and clear of all liens, claims, security interests or any other encumbrances. Seller bears all risk of loss or damage to the Goods until delivery of the Goods to the Delivery Location.
 - C. All items shall be prepared and packed for shipment in a manner that will prevent damage in transit. Buyer is not liable for extra charges for packing, cartage or any other expense related thereto unless stated in this order. Seller shall provide Buyer's part number, order number, line number and release number on all invoices, packing slips, container labels and any other shipping documentation.
5. **Inspection; Acceptance:** Seller agrees to permit Buyer and/or its inspectors to have access to Seller's plant at all reasonable times for the purpose of inspecting the Goods as set forth in the Order and any work in process for production of such Goods. All Goods are subject to final inspection and approval at Buyer's facilities or other place designated by Buyer. Inspection shall be made within a reasonable time after delivery irrespective of the date of payment. The date of payment and the payment for any Goods purchased hereunder shall not constitute approval or acceptance of such by Buyer and Buyer's right of inspection shall survive payment. Any inspection records relating to the Goods and/or Services on the Order shall be available to Buyer for a minimum of one (1) year after delivery to Buyer. No inspection (including source inspection) test, approval (including design approval) or acceptance of Goods and/or Services shall relieve the Vendor from its obligations hereunder. Buyer, at its sole option, may inspect all or a sample of the Goods and/or Services, and may reject all or any portion of the Goods and/or Services if it determines they are nonconforming or defective. If Buyer rejects any portion of the Goods and/or Services, Buyer, without limiting its other rights or remedies, may: (i) assess Seller a fee associated with the delivery of defective Goods and/or Services; (ii) rescind the Order in its entirety; (iii) accept the Goods and/or Services at a reasonably reduced price; or (v) reject the Goods and/or Services and return the rejected Goods at Seller's expense and Seller shall bear all costs of return and risk of loss as to the rejected Goods. Seller shall, at Buyer's election, replace any rejected Goods returned to Seller hereunder, reperform the defective Services, refund the full purchase price thereof and in either case bear the costs associated with any air freight or expedited delivery to Buyer of conforming Goods and/or Services to remedy any defects or nonconformity. If Seller fails to timely deliver replacement Goods and/or Services, Buyer may replace them with goods and/or services

from a third party and charge Seller the cost thereof and terminate this Order for cause pursuant to Section 10. Buyer shall have the right to conduct further inspections after Seller has carried out its remedial actions.

6. **Price:**

- A. This is a firm price order. The price for the Goods and Services is the price stated in the Order. Unless otherwise specified in the Order, the price includes all packaging, transportation costs to the Delivery Location, insurance, customs duties and applicable taxes, including, but not limited to, all sales, use or excise taxes. Seller shall pay, without charge to Buyer, any federal, state or local tax or other government charge or assessment relating to the production, sale or shipment of any Goods or provision of Services under the Order unless otherwise expressly agreed to in writing by the Buyer. No increase is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of Buyer.
- B. Seller represents and warrants to Buyer that the price for Goods and/or Services provided under the Order are the lowest prices, whether or not published, for which the Seller has sold or is selling such Goods and/or Services, taking into account any differences in quantities and/or delivery schedule. Buyer shall be entitled to receive from Seller a price reduction if Seller offers substantially similar Goods and/or Services to others at a lower price (taking into account differences in quantities and delivery schedule) at any time during the period beginning on the date of the Order and ending ninety (90) days after the final payment due date for such Goods and/or Services. Buyer may take volume discounts retroactively.
- C. Invoices shall be submitted upon final acceptance of the Goods and/or Services. Buyer may deduct five percent (5%) as a processing fee from Seller for any invoice issued more than one hundred eighty (180) days after Buyer's acceptance. Buyer shall pay all properly invoiced amounts due to Seller within sixty (60) days after Buyer's receipt of such invoice, except for any amounts disputed by Buyer in good faith. All payments due under the Order shall be paid in United States dollars or as agreed by Buyer and Seller. Partial payments may be made at Buyer's option. Buyer may set-off any amount owed by Buyer to Seller against any amount owed Buyer from Seller. Seller's acceptance of payment constitutes an unconditional waiver and release of any statutory lien, mechanic's lien, stop notice, bond right, and claim for payment. Seller warrants, represents and covenants that when final payment is accepted from Buyer, all applicable taxes have been fully paid and all laborers, mechanics, and subcontractors have been paid or will be paid in full from the final payment.
- D. Seller shall make spare parts for Goods purchased pursuant to the Order available to the Buyer at Seller's current price, less all applicable discounts.
- E. All costs associated with custom product tooling shall be paid by Seller, unless otherwise expressly agreed to in writing by Buyer.
- F. Seller shall bear responsibility for all errors contained in any invoice, acceptance, acknowledgement or confirmation it provides to the Buyer.
- G. Buyer shall (upon reasonable notice) have the right to audit books and records of Seller for the purpose of confirming the amount due to Seller or Seller's performance of its obligations hereunder. Seller, its subcontractors, and any other entity Seller uses to perform its obligations hereunder shall preserve all such records for a period of three (3) years after final payment.

7. **Specifications:** If drawings, blueprints, or specifications are furnished by the Buyer ("Specifications"), the Order shall be based upon such Specifications and approval of samples by Buyer shall not relieve Seller from strict and full compliance with such Specifications. Goods and/or Services not conforming to such Specifications may be rejected. Buyer may make changes to the Specifications at any time. If such changes result in delay or additional expense to Seller, an equitable adjustment of price and delivery schedule will be made.

8. **Warranty:**

- A. Seller warrants that all Goods and/or Services provided by it (i) shall be of good quality and workmanship and free of defects, latent or patent; (ii) shall conform to all Specifications or other descriptions which are supplied by Buyer; (iii) shall be merchantable; (iv) shall be fit for their intended purpose and operate as intended; (v) will be produced and supplied in compliance with applicable law; (vi) be free and clear of all liens, security interests or other encumbrances; and (vii) shall be free from any claim of any third party, including without limitation any claims of infringement. Seller may not negate, exclude, limit or modify any warranty otherwise available to Buyer. Any attempt by Seller to do so is ineffective and shall not in any way bind Buyer. Buyer's inspection or acceptance of any Goods and/or Services, or Buyer's payment for Goods and/or Services shall not constitute a waiver by it of any warranty. None of the remedies available to Buyer for breach of any of the foregoing warranties may be limited except to the extent and in the manner agreed upon by Buyer in a separate written agreement specifically designating such limitation and signed by an authorized representative of Buyer.
- B. When any Goods and/or Services are modified, adjusted, repaired, replaced or re-performed, such shall be subject to the same warranties, the same conditions and the same remedies provided for the original Goods and/or Services, provided the warranty period for such Goods and/or Services shall begin on the date the modification, adjustment, repair, replacement or re-performance is complete.
- C. If any Goods and/or Services do not comply with the foregoing warranties, Buyer may, at its sole option, and in each case at Seller's sole expense: (i) reject the Goods and/or Services; or (ii) require Seller to repair, correct, replace, or re-perform such Goods and/or Services as necessary to render them in conformance with the foregoing warranties; or (iii) return such Goods and receive a full refund of any amount paid; or (iv) arrange for Buyer or a third party to make any corrections and replacement required to cause such Goods and/or Services to fully conform to the foregoing warranties. Seller shall reimburse Buyer for all expenses Buyer incurs in connection with a breach of the foregoing warranties (including transportation, expediting, storage, administrative, and other incidental expenses of Purchaser). The remedies set forth herein are cumulative and shall not preclude any other remedy available to Buyer at law or in equity.

9. **Default; Cancellation; Termination for Convenience:**

- A. If Seller: (i) fails to deliver Goods and/or Services by the Delivery Date; (ii) fails to perform any other provision of this Order; (iii) becomes insolvent; or (iv) files or have filed against it a petition under any state or federal bankruptcy or insolvency law, then, and in any such event, without prejudice to Buyer's other rights or remedies Buyer shall have the right at its option to terminate this Order, in whole or in part without any liability to Seller. Upon any such termination, Buyer may exercise any and all rights accruing to it, both at law including those set forth in the Uniform Commercial Code or in equity and may also (1) require Seller to deliver any or all Goods, or parts thereof, which have been produced, or are in process of production pursuant to this Order, in which event Buyer shall pay Seller the price for the acceptable completed Goods so delivered and shall reimburse Seller for its costs actually incurred with respect to the partially completed Goods so delivered, provided that such costs, in no event, shall exceed the price equitably allocated thereto on the Order; and (2) procure, for such items and in such manner as it may deem appropriate, Goods and/or Services similar to those terminated, and to recover from Seller the excess cost incurred by Buyer in procuring such similar Goods and/or Services.
- B. In addition to the above, Buyer reserves the right to cancel the Order, or any part thereof, at any time, even though Seller is not in default hereunder, by giving written notice to the Seller. Buyer shall pay for all Goods and/or Services delivered and completed and an

equitable settlement shall be arrived at for the costs incurred by Seller for Goods in process not to exceed thirty (30) days average procurement by the Buyer over the previous ninety (90) days prior to notification. Where cancellation is by reason of termination of a contract of the United States Government under which this Order has been placed, Buyer will pay the Seller at such time as Buyer is paid by the United States Government.

- C. Upon receipt of any notice of cancellation hereunder, Seller, unless otherwise directed, will immediately discontinue all work in process and immediately cancel all orders or subcontracts given or made pursuant to this Order.
- D. Exercise by Buyer of the rights of cancellation reserved hereunder shall give rise to no liability on the part of the Buyer except as specified in this Section 9 and shall not have the effect of waiving damages the Buyer might otherwise be entitled to. Seller's obligations under Sections 3.D, 5, 6.B, 8, 12, 13, 14, 15, 17, 18 and 27 shall survive any termination hereunder.
10. **Suspension:** Buyer may suspend Seller's performance hereunder, in whole or in part, at any time without cause and for its own convenience, by giving Seller written notice. Supplier will adjust its manufacturing schedules consistent with Purchaser's deferral request. Suspension hereunder shall not affect the price or the period of performance, unless Seller experiences a cost increase or time delay as a result of such suspension and provides Seller written details of such effects within thirty (30) days after such suspension.
11. **Changes:** Buyer may, at any time, by written notice, make changes altering, adding to, or reducing the scope of the Goods and/or Services or changing the Specifications, packing and shipping instructions, Delivery Location, quantities, sequencing, or accelerating performance ("Change Order"). A change pursuant to this Section 11 shall not be a basis for schedule extensions unless such extensions are agreed upon at the time of the Change Order. Such changes shall be initiated by written order of Buyer and Seller shall submit the proposed cost or credit to Buyer for any changes within fifteen (15) working days after receipt of the written order. No change to the cost or schedule shall be binding upon Buyer without Buyer's written approval. Seller shall be paid for any additional performance as set forth in the Change Order.
12. **Intellectual Property Indemnity:** Seller agrees to defend, indemnify and hold Buyer, its affiliates, successors and assigns, and its and their respective officers, directors, employees, independent contractors, agents, successors and assigns (collectively, the "Indemnified Parties") harmless from and against all claims, liability, loss, damage, fine, penalty or expense (including attorney's fees and expenses) arising from or in connection with any suit, claim or demand that the Goods and/or Services, or any part thereof, infringe or misappropriate the trademark, patent, copyright or other intellectual property right of any third party. Seller's obligation hereunder shall survive acceptance of the Goods and/or Services and payment thereof by the Buyer. Seller may not settle any such proceeding, claim or demand without Buyer's consent, which shall not be unreasonably withheld.
13. **General Indemnity:** Seller will indemnify, defend and hold harmless Buyer and the Indemnified Parties from and against any and all liabilities, losses, fines, penalties, damages, costs, expenses, claims and proceedings which any of the Indemnified Parties may suffer or for which any of the Indemnified Parties may become liable and which arise out of any of the following: (i) Seller's breach of any provision herein or any other agreement between Buyer and Seller; (ii) the manufacture or delivery of Goods or any defect in the Goods and/or Services, workmanship or otherwise; (iii) any act or omission of the Seller; (iv) any actual or alleged infringements of any intellectual property right of any other party, resulting from any sale, use or manufacture of any Goods and/or Services delivered hereunder; (v) Seller's failure to comply with any federal, state, county or local laws, ordinance, regulations and codes; and (vi) any and all actions, suits, proceedings, demands, assessments, judgments, costs and expenses, including reasonable attorneys' and consultants' fees incident to any of the foregoing. If there is a claim against Buyer arising out of the foregoing, Seller will have the right, at its option and expense, to defend any such proceeding, claim or demand. If Seller defends such claim, Buyer shall still have the right, at its cost and expense, to participate in the defense with counsel of its own choosing. Buyer may retain counsel and conduct the defense of the proceeding, claim or demand in question as it may deem proper in its sole discretion, at the sole cost and expense of Seller. Seller may not settle any such proceeding, claim or demand without Buyer's consent, which shall not be unreasonably withheld. If an employee of Seller or its subcontractor, or such employee's heirs, assigns, or anyone otherwise entitled to receive damages by reason of injury or death to such employee, brings an action at law against the Buyer or the Indemnified Parties, then Seller, for itself, its successors, assigns, and subcontractors hereby expressly waives any provision of any workers' compensation act or other similar law whereby Seller could preclude its joinder by such Indemnified Parties as an additional defendant in such actions, or avoid liability for damages, contribution, defense, or indemnity in any such action at law, or otherwise. Seller's obligation to Buyer under this Section 13 shall not be limited by any limitation on the amount or type of damages, benefits or compensation payable by or for Seller under any worker's compensation acts, disability benefit acts, or other employee benefit acts on account of claims against Buyer by an employee of Seller or anyone employed directly or indirectly by Seller or anyone for whose acts Seller may be liable.
14. **Insurance:** During the term of the Order and for a period of one (1) year thereafter, Seller shall, at its own expense, maintain and carry insurance in full force and effect the below policies with financially sound and reputable insurers:
- A. Commercial General Liability (CGL) insurance including products-completed operations, independent contractors and contractual liability coverages with limits of \$2,000,000 per occurrence and \$3,000,000 in the aggregate, combined single limit for bodily injury (including disease or death), personal injury and property damage (including loss of use) liability.
 - B. Automobile Liability insurance, including non-ownership and hired car endorsement, with limits of \$1,000,000 per occurrence, combined single limit.
 - C. Worker's Compensation coverage in the statutory amounts under the worker's compensation act(s) of the location(s) in which the Work is to be performed, for the current period.
 - D. Employer's Liability with a limit of \$1,000,000 for each accident or illness.
 - E. If Seller is providing any professional or consulting services for Buyer, Professional or Errors and Omissions insurance with limits of \$3,000,000 per claim and in the aggregate.

Upon Buyer's request, Seller shall provide Buyer with a certificate of insurance from Seller's insurer evidencing the insurance coverage specified in this Order. The certificate of insurance shall name Buyer as an additional insured. Seller shall provide Buyer with thirty (30) days' advance written notice in the event of a cancellation or material change in Seller's insurance policy. Except where prohibited by law, Seller shall require its insurer to waive all rights of subrogation against Buyer's insurers and Buyer or the Indemnitees.

15. **Export Controls:** The Goods purchased by Buyer and received from Seller are intended for end use, directly or indirectly, in the performance of Buyer's operations. Seller agrees to comply with all applicable United States antiboycott, export control, sanctions laws, and any applicable foreign export and import laws or regulations or any applicable export control and sanctions laws of any other government having jurisdiction over the transaction or the parties, except where compliance with such laws would result in a violation of

U.S. laws and regulations, including but not limited to laws which may penalize or prohibit (a) transactions involving any person, company, or other entity appearing on any applicable list of prohibited parties maintained by the United States Government; or (b) transactions involving countries against which the United States maintains economic sanctions or embargos under statute, Executive Order, or any government in any applicable jurisdiction, or regulations issued by the Office of Foreign Assets Control ("OFAC").

16. **Subcontract, Assignment:** Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Order without the prior written consent of Buyer. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder. Buyer may at any time assign, transfer or subcontract any or all of its rights or obligations under the Order without Seller's prior written consent.
17. **Buyer's Property:** All tools, dies, jigs, patterns, equipment or material and other items purchased, furnished, charged to or paid for by Buyer and any replacement thereof ("Buyer Property"), shall remain the property of Buyer. Such Buyer Property shall be plainly marked to show it is the property of Buyer and shall be safely stored and maintained apart from other property held by Seller. Seller shall not substitute Seller property for Buyer Property and shall not use Buyer Property except in filling Buyer's orders. Seller shall hold Buyer Property at its own risk and upon Buyer's written request deliver to Buyer the Buyer Property in the same condition as originally received by Seller, reasonable wear and tear excepted. Title to and right of possession to special tooling, dies, jigs, patterns and equipment, the cost of which is fully or substantially amortized in the price of the Goods purchased, shall remain with Seller but Seller shall, at no additional cost to Buyer, hold such special tooling for Buyer's exclusive use and Seller shall not dispose of such tooling without prior written approval of Buyer. Seller shall take all necessary measures to preserve Buyer's title to Buyer Property, free of all encumbrances. Buyer retains the right in addition to other rights provided by law, to enter Seller's premises and remove Buyer Property with or without a court order. Seller shall defend, indemnify and hold Buyer and the Indemnified Parties harmless against any and all liability for damages to property or injury to, or death of any persons which may arise from, may be incidental to the presence of, or may involve the use of Buyer Property whether such damage, injury or death is caused by defects in the Buyer Property, negligence in the use thereof or otherwise.
18. **Drawings, Specifications and Technical Information:** The ideas, information and designs contained in or shown upon, and the drawings, Specifications, photographs and other engineering and manufacturing information supplied by Buyer shall remain Buyer's property, shall be retained in confidence by Seller and not be disclosed to any other person or entity and shall not be used nor incorporated into any product or item later manufactured or assembled by Seller for anyone other than Buyer. Any unpatented knowledge or information concerning Seller's processes, present or contemplated products or their uses, which Seller may disclose to employees of Buyer in connection with the ordering, acquisition and use by Buyer of the Goods or Services covered by this Order shall, unless otherwise specifically agreed in writing, be deemed to have been disclosed as part of the consideration for this Order and Seller agrees not to assert any claim against Buyer by reason of any alleged use to which any such information or knowledge may be put by Buyer.
19. **Chemical Substances:** Seller warrants that each and every chemical substance sold or otherwise transferred by Seller to Buyer as part of this Order that is required or permitted to be reported for the inventory of chemical substances (409 CFR Part 710) has been reported to Environmental Protection Agency ("EPA") either by Seller or by others for incorporation in the inventory of chemical substances compiled and published by the administrator of the EPA pursuant to the Federal Toxic substances Control Act (PL 94-469).
20. **Hazardous Materials:** Seller shall notify Buyer of any inherent hazard related to any materials which could be exposed during handling, transportation, storage, use, resale, disposal or scrap. Said notice shall be sent to the Buyer's Head of Supply Chain and shall specify the product name and part number, the nature of the hazard, proper precautions that must be undertaken by Buyer or others to protect against the hazard and any additional information necessary to protect Buyer's interest.
21. **Compliance with Law:** Seller represents and warrants that the performance of this Order in furnishing the Goods and/or Services shall be in accordance with the applicable standards, provisions and stipulations of all pertinent federal, state, or local laws, rules, regulations, executive orders or other ordinances, including but not limited to the Fair Labor Standards Act, as amended and of regulations and orders of the United States Department of Labor issued under Section XIV thereof, the Occupational Safety and Health Act of 1970, and the Toxic Substances Control Act, each as amended and in connection therein. Seller shall include the following legend on all invoices: "We hereby certify that the Goods were produced in compliance with all applicable requirements of the Fair Labor Act, as amended, and of regulations and orders of the United States Department of Labor and that the Goods as installed and/or used by Buyer will comply with the Occupational Safety and Health Act of 1970 as amended and the implementing rules and regulations promulgated by the Secretary of Labor".

If Seller is providing Goods to Buyer, Seller agrees to review and comply with Buyer's conflict minerals policy statement and to use commercially reasonable efforts to: (a) identify whether such Goods contain tantalum, tin, tungsten or gold; (b) conduct a reasonable country of origin inquiry regarding the origin of such minerals in such Goods to determine whether such minerals originated in covered countries, as defined in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act; (c) if such minerals originated in covered countries, conduct due diligence on the chain of custody of the source of such minerals for the purpose of identifying the smelter of said materials; and (d) assist Buyer in conducting reasonable due diligence concerning the smelters of such minerals. Seller shall include the substance of this Section in any agreement between Seller and its lower tier sellers and provide Buyer with reasonable documentation of Seller's and its lower tier sellers' due diligence efforts, in a format prescribed by Buyer, when requested by Buyer.
22. **Equal Opportunity:** During the performance of this Order, the Seller shall comply with provisions of Executive Order 11246, including all amendments thereto relative to Equal Employment Opportunity and the implementing rules and regulations of the Department of Labor on Equal Opportunity Employment, all of which are incorporated herein by specific references and Seller shall on Buyer's request, so certify.
23. **Gratuities:** Seller represents and warrants that Seller has not offered or given any employee, agent, or representative of Buyer, or any government, any gratuity with the intent of securing any business from Buyer or favorable treatment under any agreement with Buyer. Any breach of this warranty shall be a material breach of the terms and conditions of each and every Order between Buyer and Seller.
24. **Waiver:** Failure of Buyer to insist on performance of any of these terms and conditions shall not be construed as a waiver of such items, conditions or requirements and shall not affect the right of Buyer thereafter to enforce each and every term, condition or requirement hereof.
25. **Severability:** If any language herein shall be invalidated for any reason, that language shall be considered deleted and the remainder shall be unaffected and shall continue in full force and effect to the fullest extent permitted by law.

26. **Survival:** The parties acknowledge and agree that these Terms are intended to govern the rights, duties and obligations of the parties following the closing. Accordingly, this Agreement shall survive and shall not be deemed merged into, the execution or delivery of any Goods and/or Service.
27. **Cumulative Remedies:** Nothing herein shall limit Buyer's rights in law or equity for damages resulting from the delivery of any Goods and/or Services. The remedies provided herein are cumulative and are in addition to any other remedies provided at law, or in equity, and nothing herein shall be construed as prohibiting Buyer from pursuing any other remedies at law or in equity available to it for any breach or threatened breach of these terms and conditions, all of such remedies being cumulative in every respect. No waiver of any breach or violation hereof shall be implied from forbearance or failure by Buyer to take action thereon.
26. **Choice of Law and Personal Jurisdiction:** This Order shall be governed and construed in accordance with the laws of the State of Ohio. Any action relating to this Order shall be instituted and prosecuted in the courts of the County of Cuyahoga, State of Ohio or the United States District Court for the Northern District of Ohio. Seller agrees to submit to the exclusive jurisdiction of such courts and further agrees not to contest such venue as a forum non conveniens. Pending any decision, appeal or judgment in such proceedings or the settlement of any dispute arising under this order, Seller shall proceed diligently with the performance of the Order in accordance with decision of the Buyer.
27. **Miscellaneous:**
- A. This relationship is not exclusive, and Buyer may, at its sole discretion, contract with others for the Goods and Services as is herein contemplated.
 - B. The relationship between the parties is that of independent contractors. Nothing contained in the Order shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Order.
 - C. This Order is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.
 - D. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of this Order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Order, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.
 - E. Unless authorized by Buyer in writing, the names of Buyer, its parent, subsidiaries and/or affiliated corporations or any of their trademarks shall not be used by Seller.
 - F. No news release, public announcement, denial or confirmation of same or any part of the subject matter of this purchase order or any phase of this purchase order shall be made without the prior written approval of Buyer.