

Terms and Conditions of Purchase

1. **FORMATION.** This purchase order ("Order") expressly limits acceptance to its terms. Senior Operations, LLC. ("Senior") hereby objects to any additional or different terms in any response to this offer. Any trade usage or course of dealing conflicting with any term in this offer is expressly negated. The parties intend that the terms of this Order constitute the final, complete, exclusive and fully integrated terms of the contract. Any other prior or contemporaneous agreements, oral or written, are hereby negated. Any modification or waiver of the terms of this Order, whether evidenced by language or conduct, shall be null and void unless they are evidenced by a writing signed by an authorized agent of Senior.
2. **BLANKET PURCHASE ORDERS.** In the event this Order is designated a Blanket Purchase Order (a "Blanket Purchase Order"), these Terms of Conditions shall still apply, but all quantities set forth on the initial Blanket Purchase Order shall be estimates. Senior will thereafter provide to Seller firm releases ("Releases") for specific quantities.
3. **INVOICES; PAYMENT.** Senior will process payment for Goods when shipped in a manner acceptable to Senior and when entered into Senior's system. Payment terms are "Net 60," preferably by wire transfer via Senior's auto-voucher system. For Goods shipped into Senior's consignment location pursuant to Section 6 below, the sixty (60) day time period for payment shall begin when such Goods are entered as "Received from consignment inventory" in Senior's processing system. Invoices are normally not required unless Seller is not set up for auto voucher system. In such case Seller shall send an invoice. Senior may withhold or set off from any payment any amount as to which a dispute exists under this Order or against any amount due Senior under this Order or arising out of any other transaction with Seller.
4. **PACKING AND SHIPMENT.** Seller will pack and ship the materials ordered and any other services (collectively, "Goods") in accordance with Senior's instructions (including any requested bar code, certifications and traceability information), furnish all shipping documents required by Senior and plainly mark Senior's name and the Order number on all packages and documents. Title to the Goods described herein shall not pass to Senior until said Goods have actually been received by Senior (title to the Goods shipped into consignment location pursuant to Section 6 below shall not pass to Senior until said Goods have actually been received by Senior from Senior's consignment location) notwithstanding any agreement to pay freight, express or other transportation or insurance charges. Unless otherwise stated in the Order, Seller will bear all risks and costs of delivering the Goods, including shipping and insurance charges, duties, taxes and other charges. Senior's count or weight will be final and conclusive for all shipments. The following additional requirements shall apply:
 - (a) The Order number, part number, and revision level must appear on each package, invoice, and all other documents.
 - (b) All shipments must include a separate numbered packing list for each Order.
 - (c) The enclosed acknowledgment with all of the information requested shall be returned promptly upon receipt of this Order.
 - (d) Normal receiving hours are 7:00 A.M. - 2:30 P.M. - Monday through Friday.
 - (e) Seller will properly classify, describe, package, mark, label and provide Material Safety Data Sheets for the Goods and pack and ship them in compliance with any applicable hazardous materials laws, regulations, ordinances and orders.
5. **DELIVERIES.** Time is of the essence in Seller's performance of this Order. Deliveries shall be made both in quantities and at times specified in Senior's delivery schedules and/or Releases, which Senior may change at any time and in any manner. Seller will procure required materials and will fabricate and ship Goods to ensure that Goods will be delivered in the quantities and at the time specified in Senior's Releases. It is Seller's responsibility to keep reasonable inventory level of finished goods and raw materials to assure delivery of Goods described in the Order according to the ship schedule and Releases provided and to accommodate for changes in schedule and Releases. If Seller fails to make timely delivery or perform services at the time required to fulfill Senior's Releases, all damages suffered by Senior and any premium transportation or other costs required to meet the specified delivery schedule will be at the sole expense of Seller. These costs may include, but are not limited to, premium freight, overtime, production downtime, rework, inspection, expediting and the like. If applicable, these costs shall also include any charges incurred by Senior from any Senior customer. Seller will not ship any Goods, except to the extent required to fulfill Senior's Releases or schedule. Senior shall have no liability to Seller with respect to materials procured, or Goods fabricated, assembled or shipped in excess of the quantities required to fulfill Senior's Releases. Senior shall not be required to make payment for goods delivered to Senior that are in excess of quantities specified in Senior's Releases and may return excess shipments to Seller at Seller's risk and expense. Senior may at any time change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which shall entitle Seller to a modification of the price for Goods covered by this Order. If Seller fails to deliver any shipment of Goods in accordance with Senior's instructions, Senior may cancel the Order and/or purchase substitute goods, in which event Seller will reimburse Senior for its costs in procuring the substitute goods as well as additional production expenses. Unless otherwise agreed, delivery times specified are the times of delivery of Goods at Senior's facility. In the event of early delivery, Senior's obligation to pay for the Goods shall be based on Senior's specified delivery date (or date received from consignment inventory, as applicable), and not the actual date of delivery. If Seller is unable, at any time, to supply the scheduled quantity (per an Order) or the Release quantity (for Blanket Purchase Orders), Seller will meet all of Senior's requirements before making any allocation among its other customers under Section 2-615 of the Uniform Commercial Code or its equivalent.
6. **CONSIGNMENT.** Unless agreed otherwise Senior requires Seller to ship parts on a consignment basis. Senior will keep at least minimum quantities in its consignment warehouse to accommodate for possible spikes in demand. Senior shall be deemed to receive delivery of the Goods upon removal from consignment location and use in production.
7. **CHANGES.** At any time Senior may, by written notice, make changes in the scope of this Order relating to the design (including drawings, materials and specifications), processing, the place of delivery, the method of delivery or packing, or to otherwise change the scope of the work covered by this Order including but not limited to, inspections, testing and quality control due to requirements imposed upon Senior by Senior's customers or otherwise. Seller agrees to promptly make all such changes. If a change causes an increase or decrease in either cost or time required for performance, an equitable adjustment shall be made to the price and/or delivery schedule, and the parties shall modify this Order accordingly. Any claim by Seller for adjustment shall be deemed waived if not made in writing within ten (10) calendar days of receipt of Senior's notice of change. Nothing herein shall excuse Seller from proceeding with performance of this Order as changed. Nothing herein shall limit Senior's rights to change the quantity or delivery schedule, as specified in Section 5 above, by notification to Seller, and such changes shall not result in payments to Seller.
8. **SERVICE PARTS.** A Seller that is supplying Goods to Senior under a Blanket Purchase Order that possesses the tooling to make a current production part is responsible for supplying to Senior service parts for that item for seven (7) years at the production quantity price with no set up charges or surcharges levied because of smaller than production quantities.
9. **SPECIAL TOOLING.** All dies, jigs, fixtures, drawings, molds, patterns, templates, gages and the like which are either expressly identified in this Order as Senior's property or made or acquired by Seller for use in manufacturing or assembling Goods which are proprietary to Senior constitute "Special Tooling." All Special Tooling will belong solely to Senior, subject to payment of the purchase price (if any) for the Special Tooling which is set out in the Order. No such payment will be due until Seller has provided an itemized list of the Special Tooling and Senior has accepted the Special Tooling or the first run of Goods manufactured or assembled with it. Seller will maintain adequate cost records for all Special Tooling and make such records available for review or audit by Senior. If Seller fails to maintain such records, Senior's sole obligation to Seller will be to pay the fair market value of the Special Tooling in lieu of the purchase price set out in the Order. While the Special Tooling is in its possession or custody, Seller will be responsible for any loss or damage to it and for all taxes, assessments, and similar charges levied with respect to or on it. Seller shall insure the tools with full extended coverage insurance for the replacement value of the Special Tooling. Seller will label the Special Tooling in such manner as Senior requires to permit accurate identification of it at all times and will segregate it from other tooling in Seller's possession to the extent practicable. After the initial purchase, Seller is responsible for repair, maintenance, upkeep or replacement of the Special Tooling in order to keep it in good working condition at Seller's expense. Seller will use the Special Tooling exclusively to produce Goods for Senior hereunder and for no other use. Upon expiration, cancellation, or termination of the Order, Seller will hold

the Special Tooling and any operation sheets, process data, or other information necessary to show its use, at no charge, pending receipt of Senior's instructions about its removal or disposition, which will be at Senior's expense.

- 10. INSPECTIONS.** Senior may inspect and/or test the Goods at any time at its own expense and Seller, at no charge, will make its premises available for this purpose and provide any necessary assistance to make the procedures safe and convenient. No inspections and/or tests by Senior will relieve Seller of its obligations to inspect and test the Goods. If Senior finds any Goods to be defective or not in conformity with its specifications or requirements, in addition to any other remedies of Senior, Senior may return them at Seller's risk for a refund of the purchase price, require Seller to repair or replace them, rework or sort them itself or through third parties, and Seller will reimburse Senior for all resulting costs. Seller is responsible for all inspection and any other costs related to non-conforming Goods.
- 11. WARRANTIES OF SELLER.**
- (a) Seller will be competitive in price, quality, delivery, technology and service with respect to the Goods during the term of the Order. Seller warrants that its prices to Senior for the Goods are and will remain no less favorable than its prices to other customers for the same or comparable goods in comparable quantities. Seller agrees to reduce its prices under this Order if necessary at any time to maintain this warranty.
 - (b) Seller will comply with ISO 9001:2000 quality requirements and all other quality standards and procedures specified by Senior or generally applicable in the industry, including those resulting from requirements of Senior's customers and shall work towards obtaining ISO/TS 16949:2002 certification or compliance, if certification is not allowed by the scope of ISO/TS 16949:2002. Production materials shall follow QP-1.6-004; prototype materials shall follow QP-1.6-009. Invoices may not be paid until full approval is granted. Unless the revision is stated on any specification callout, the current revision in effect at time of any Order placement shall apply.
 - (c) Seller warrants to Senior, Senior's customers, and end users that the Goods will be new and that Seller has good title to them and will deliver them to Senior free and clear of all liens and encumbrances. Seller further warrants that the Goods will be: (i) free from defects in material and workmanship and design; (ii) merchantable; (iii) in conformity with all specifications, drawings and/or samples furnished by Senior (or furnished by Seller and accepted by Senior); (iv) fit and sufficient for their intended uses; (v) meet all applicable industry standards; and, (vi) if applicable, in conformity with the Federal Motor Vehicle Safety Standards issued pursuant to the National Traffic and Motor Vehicle Safety Act of 1966, as amended.
 - (d) Seller warrants that it will comply with all applicable laws, regulations, standards, ordinances and orders in performing this Order and will furnish Senior and its designees with such certificates or reports of legal compliance as Senior may request from time to time.
- 12. INDEMNIFICATION.** Seller will defend, indemnify, and hold harmless Senior and its directors, officers, employees, agents, consultants, customers, end users, successors and assigns from and against all claims of or suits whether in law or in equity, for property damage or destruction, personal injury or death or any other damages of whatsoever nature or kind, including claims of consequential loss and breach of contract, in any way related to Seller's work, its product or its workmanship, or the actions or omissions of the Seller or its employees, agents, or subcontractors, except for claims arising through the claimed sole and exclusive negligence of Senior.
- 13. INSURANCE.** During the term of the Order, at its own expense, Seller will maintain insurance coverage for workers' compensation, public liability (including contractual liability and products liability) and automobile liability in amounts and with insurers satisfactory to Senior. On request, Seller will furnish Senior with certificates of insurance that evidence this coverage, name Senior as an additional insured, and prohibit the cancellation or reduction of coverage without 15 days' prior written notice to Senior. Compliance with this Section 13 will not relieve Seller of its defense and indemnification obligations under Section 12.

14. TERMINATION

- (a) Senior may terminate this Order for convenience at any time by written notice to Seller. Upon receipt of such notice, Seller shall immediately stop work on this Order or the terminated portion thereof, as the case may be, and notify all subcontractors and suppliers to do likewise. On termination pursuant to this Section 14(a), Senior will be liable to Seller for unpaid invoices for conforming Goods previously shipped. Senior shall also pay for two weeks of raw material and two weeks of finished goods, if such Order or portion thereof is terminated less than two (2) weeks prior to scheduled ship date or a Release ship date, not to exceed the volumes specified in the Releases of cancelled Order and payable only after Senior's receipt of the same.
- (b) Senior may terminate this Order immediately by written notice to Seller without liability or further obligation hereunder if Seller breaches any provision, term or condition of the Order (or Senior anticipates such breach) and Seller shall be liable for all damages, losses and liability that Senior incurs directly or indirectly resulting from Seller's breach, including, without limitation, attorney's fees.
- (c) Senior may terminate this Order immediately by written notice to Seller without liability or further obligation hereunder if Seller fails or refuses to furnish Senior with such information and assurances as Senior may request about Seller's financial and operating conditions as affecting Seller's ability to supply Goods under this Order and, to the extent permitted by law, in the event of Seller's insolvency, the filing of a voluntary or involuntary petition in bankruptcy by or against Seller, the appointment of a receiver or trustee for Seller, Seller's execution of an assignment for the benefit of creditors, or a comparable event. In the event of a termination under this Section 14(c), Seller shall be liable for all damages, losses and liability that Senior incurs directly or indirectly resulting from Seller's breach, including, without limitation, attorney's fees.
- (d) Should Senior's termination prove to be wrongful, Seller's sole and exclusive remedy shall be to treat the termination as having been made for convenience.

15. NOTICE PRIOR TO ORDER EXPIRATION OR PRICE

UNJUSTMENTS. The term of this contract is for the period(s) of purchase indicated in the Order. Under this Order Seller is obligated to provide to Senior Goods for the life of this Order. Seller has no right to terminate or cancel the Order without Senior's written approval prior to its scheduled expiration. Not later than four (4) months prior to the scheduled expiration of this Order, Seller shall inform Senior in writing regarding its decision whether to extend this Order for an additional time and any proposed price increases for the new term and related justification. Proposals not meeting these requirements will not be considered during any renewal negotiations.

16. SUPPLIER QUALITY, DEVELOPMENT & INSPECTION.

Seller agrees to participate in Senior's supplier quality and development program(s). Seller at its own expense will maintain material certifications on all products supplied to Senior. At a minimum, these certifications will be suitable for PPAP submission to Senior's customers per the current revision of the AIAG PPAP manual and be performed by an A2LA facility. Upon request, Seller will provide these certifications to Senior. Such certifications will be no more than one year old. In addition, Senior shall have the right to enter Seller's facility at times and places designated by Senior to inspect the facility, tooling, services, materials and any property of Senior covered by this Order. Upon Senior's request, Seller will provide all relevant quality records to Senior.

- 17. NONCONFORMING GOODS.** Seller acknowledges that Senior is not obligated to perform incoming inspection of the Goods, and waives any right to require Senior to conduct such inspections. To the extent, Senior rejects Goods as nonconforming, even if the nonconformity does not become apparent until the manufacturing, assembly or processing stage either at Senior or its customers' facility, Senior may revoke acceptance, reject or require correction and return the Goods to the Seller (at Seller's expense and risk of loss) that do not conform to applicable requirements. This Order is issued for the

part specifically identified in the Order and any substitution of material, without prior Senior approval, will be considered a breach of this Order. If Senior finds any Goods to be defective or not in conformity with its specifications, without limiting its remedies, after notice to Seller, Senior may (i) return nonconforming Goods to Seller (at Seller's expense and risk of loss) for a refund of the purchase price, (ii) request Seller to replace, rework or correct any nonconforming Goods, (iii) replace, rework, correct or sort any nonconforming Goods itself or through the third party and charge Seller for all the resulting cost, (iv) cancel the Order, (v) subject Seller's account to a debit for the damages suffered by Senior, and/or (vi) remove the Seller from an approved supplier to Senior. Payment for nonconforming goods will not constitute an acceptance of them, will not limit or impair Senior's right to assert any legal or equitable remedy, and will not relieve Seller's responsibility for latent defects.

18. **CONFIDENTIAL INFORMATION.** Except as necessary to perform this Order, as required by law (upon prior written notice to Senior), or with Senior's prior written consent, Seller will, at all times, keep confidential all information, drawings, specifications and data furnished by Senior (whether in writing, electronically, orally, or visually) or derived or developed by Seller for the purpose of performing this Order ("Confidential Information"). Seller agrees to take all reasonable steps to ensure and preserve the confidentiality of Senior's Confidential Information. Upon termination of this Order, and, at any time upon written request, Seller will return all copies of Senior's Confidential Information to Senior. Seller will not publish or advertise the existence or nature of this Order without Senior's prior written consent. Seller acknowledges that a breach of this Section 17 may cause irreparable harm and money damages would not be a sufficient remedy and that Senior may seek injunctive relief in addition to other remedies available at law or equity. Seller's obligations under this Section 17 shall survive termination or completion of this Order.
19. **INTELLECTUAL PROPERTY RIGHTS; PATENT WARRANTY.** If Senior furnishes the design for the Goods or reimburses Seller in whole or in part for designing them, then Senior will own all intellectual property rights relating to the design. In such case, (i) Seller hereby assigns such intellectual property rights to Senior and Senior hereby grants Seller a non-exclusive, limited license to use such intellectual property to manufacture the Goods solely for Senior and to rework, repair or replace any defective or non-conforming Goods; and (ii) Seller will supply any necessary documentation to Senior upon Senior's request regarding the assignment of rights, claims or other intellectual property rights in any design to Senior and agrees to execute any and all documents deemed necessary by Senior to effectuate Senior's rights under this Section 18. If Seller furnishes the design for the Goods or bears the full cost of designing them, then Seller will own all intellectual property rights relating to the design. In such case: (i) Seller hereby grants Senior a non-exclusive perpetual, irrevocable, royalty-free license to use the design and all related intellectual property rights to rework, repair or replace any defective or non-conforming Goods and will supply any necessary documentation for such work to Senior upon Senior's request; and (ii) Seller agrees to defend, indemnify, and hold harmless Senior, its successors, assigns, customers and users of the Goods against any and all loss, damage, or injury arising out of a claim or suit for alleged infringement or misappropriation of any third party intellectual property rights based on the sale, distribution, or use of the Goods.
20. **LIMITATION OF LIABILITY.** IN NO EVENT WILL SENIOR BE LIABLE TO SELLER FOR ANY SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES REGARDLESS OF THE LEGAL THEORY ON WHICH ANY SUCH LIABILITY CLAIM IS MADE. In no event will Senior's liability to Seller exceed the amount due under the Order for conforming Goods.
21. **TRADE CREDITS, COUNTRY OF ORIGIN.** All trade credits, export credits, customs drawbacks, tax and fee rebates and the like will belong to Senior. Seller will cooperate with Senior in obtaining these benefits and credits. Seller will furnish Senior and its designees with such documentation establishing the country of origin and value of the Goods as Senior may request, including, as applicable, affidavits of manufacture and NAFTA certificates of origin.

22. GENERAL

- (a) Seller is an independent contractor and not Senior's employee, agent, partner or joint venturer. Seller does not have the authority to act as legal representative of Senior, or bind Senior in any respect. Seller may not subcontract all or a substantial portion of the manufacture of the Goods without the prior written consent of Senior.
- (b) Seller may not transfer, assign, subcontract or delegate its rights and obligations under this Order without Senior's prior written consent, and any attempted transfer, assignment or delegation will be void and of no force or effect. This Order will bind and inure to the benefit of the parties hereto and their respective successors, permitted transferees, and permitted assigns.
- (c) Senior's remedies herein are cumulative and in addition to any other or further remedies available to it at law or equity.
- (d) Any failure by Senior to enforce any of the provisions of this Order will not be construed as a waiver of such provisions or the right of Senior thereafter to enforce each and every such provision.
- (e) All notices pursuant to this Order shall be in writing and may be sent by e-mail, fax, certified mail, or overnight mail to the last known address of the other party.
- (f) In the event any provision of this Order is found to be invalid or unenforceable, the parties hereby agree that the court shall enforce such provision to the extent permitted by law and, to the extent such provision is not enforceable, shall enforce the remainder of this Order as if such provision were not included.
- (g) The Order will be interpreted and enforced under the laws of the State of Illinois, without regard to its conflicts of law provisions thereof. The state and federal courts in Cook County, Illinois will have exclusive jurisdiction to resolve any dispute related to this Order. Seller consents to the jurisdiction of such courts and agrees to appear in any such action upon written notice thereof. In no event will the provisions of the U.N. Convention on the International Sale of Goods apply to this Order.
- (h) The terms of this Order constitute the final, complete, exclusive and fully integrated terms of the agreement and supercede all previous communications and representations between the parties with respect to the subject matter hereof. This Order may be modified by Seller only by a written amendment executed by a duly authorized officer or representative of Senior.
- (i) Senior is an equal employment opportunity employer and is a federal contractor. Consequently, the parties agree that, to the extent applicable, they will comply with Executive Order 11246, the Vietnam Era Veterans Readjustment Assistance Act of 1974 and Section 503 of the Vocational Rehabilitation Act of 1973 and also agree that these laws are incorporated herein by this reference.